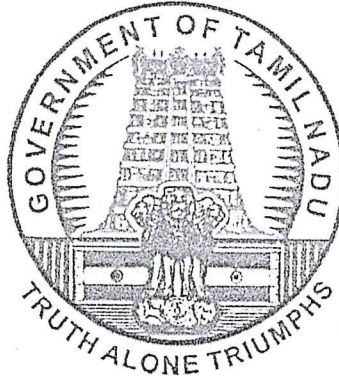


Confidential



**JUSTICE TMT. ARUNA JAGADEESAN
COMMISSION OF INQUIRY**

CONSTITUTED TO INQUIRE INTO THE CAUSES AND CIRCUMSTANCES
LEADING TO THE OPENING OF FIRE RESULTING IN DEATH AND
INJURIES TO PERSONS ON 22.05.2018 AT THOOTHUKUDI ARISING
OUT OF LAW AND ORDER DISTURBANCES INCLUDING DAMAGES
TO PUBLIC AND PRIVATE PROPERTIES.

**FINAL REPORT
VOLUME - I**

JUSTICE TMT. ARUNA JAGADEESAN



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COMMISSION OF INQUIRY**

FINAL REPORT

VOLUME - I

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This Commission draws inspiration from the guiding principle succinctly expressed by the saintly poet Thiruvalluvar in his inimitable style and it is thus:

*“ஓர்ந்துகண் ணோடாது இறைபுரிந்து யார்மாட்டும்
தேர்ந்துசெய் வஃதே முறை”*

FINAL REPORT

Sub:	Hon'ble Tmt.Justice Aruna Jagadeesan Commission of Inquiry - constituted to inquire into the causes and circumstances leading to the opening of fire by police on 22.05.2018 and subsequent events at Thoothukudi and nearby areas under Sub-Sec (1) of section 3 of the Commissions of Inquiry Act, 1952 (Central Act 60 of 1952) - Final Report - Submitted.
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In pursuance of G.O.Ms.No.368, Public (Law & Order-F) Department, dated 23.05.2018 appointing Tmt. Justice Aruna Jagadeesan, Retired Judge, Madras High Court as Commission of Inquiry,

- i) To inquire into the causes and circumstances leading to the opening of fire resulting in death and injuries to persons on 22.05.2018 and subsequent events at Thoothukudi and nearby areas, arising out of law and order disturbances including damage to public and private properties;
- ii) To determine whether appropriate force was used as warranted by the circumstances and whether all prescribed procedures were observed before opening of fire;
- iii) To ascertain whether there was any excess on the part of police officials and if so, to suggest action to be taken; and
- iv) To recommend suitable measures to prevent the recurrence of such incidents in future;

Hon'ble Tmt. Justice Aruna Jagadeesan assumed office on 23.05.2018.

2. Following the appointment of the Commission of Inquiry on 23.05.2018, a requisition together with an invitation to give evidence either orally or in the form of affidavit was notified on 02.06.2018 in the English Dailies viz. "The New Indian Express" and "The Times of India" and in the Tamil Dailies viz. "Dinamani" and "Daily Thanthi" and in all editions of Tamil Nadu. At the same time, it was made known to the public by way of "Press Meet" in the Collectorate premises at Thoothukudi that the Commission would receive oral evidence as also materials in the form of affidavit or petition from any member of the Public. In response thereof, number of affidavits were received from the Government Officials, Public, different organisational outfits, owners of vehicles that were damaged in the incident on 22nd May, 2018 and on subsequent dates, staff working in Sterlite Plant etc. On request of the Commission, video footage and news items were produced before the Commission by various social media personnel and print media. In addition, Commission also sought for information and details of arrest made by the police on 22.05.2018 and on subsequent dates from the Superintendent of Police, Tr. P. Mahendran (**RW 248**), Thoothukudi as it had come to the notice of the Commission that

several persons were allegedly arrested and detained illegally in various police stations in Thoothukudi District on 22.05.2018 and on subsequent dates.

3. Thiru Sandeep Nanduri, I.A.S., (**RW 235**) the then Collector of Thoothukudi, Thiru Murali Rambha, I.P.S., (**RW 237**) the then Superintendent of Police, Thoothukudi and his successor Thiru Arun Balagopalan, I.P.S., (**RW 232**) were good enough to make available to the Commission with promptitude the relevant documents as required by the Commission and thus enabled the Commission to appreciate the facts and circumstances effectively and answer the reference accordingly.

4. In addition, the Commission also received several documents from the District Collectorate, Police Administration and State Government departments including Public Health Department, Fire Service, Municipal Commissionerate, Sterlite Administration with CCTV footages in relation to the incidents that occurred on 22nd May 2018, 23rd May 2018 and on subsequent dates. The Commission after persistent efforts succeeded in obtaining the CCTV footages, videos, photos both from Central Bureau of Investigation (CBI) and Media. All the inputs such as information, data, report and the communication were kept confidential. The Commission impressed upon those who furnished the information

the need for maintaining absolute confidentiality for, in case of any breach of confidentiality, the information providers would be put to hardship. The reason for such a course of action is to ensure fair and just inquiry by enabling the people at large to come forward with whatever input they had with them.

5. The Commission in the course of inquiry has received a plethora of affidavits from persons from different walks of life and those affidavits though they are sworn statements could not be acted upon unless the deponent of the affidavits is examined and he/she adverts to the averments in the affidavits. This approach would only be consistent with the legal position as settled by the Hon'ble Supreme Court of India in **A.K.K Nambiar Vs Union of India reported in AIR 1970 SC 652**. If this is to be the perspective, the entirety of the affidavits received would be of no avail unless the deponent testifies to the contents of the affidavits and as such an untestified affidavit has no probative value.

6. That apart, a cursory glance of the affidavits filed before the Commission would show that most of them are mechanically drafted and contain stereotyped averments which would be an embargo for placing reliance on those affidavits for the reason that those affidavits are not properly verified, and contain only averments in the nature of allegations which are yet to be proved.



STERLITE COPPER COMPANY

It would not be appropriate and safe to place reliance on those affidavits without the averments being tested in the crucible of oral evidence which would invariably be subjected to cross examination.

7. The extract of evidence together with the exhibits are found in Volume V. The originals of the Oral testimony, Exhibits, CDs and CCTV footages and Intelligence reports are submitted separately with index.

8. BRIEF NOTE ON STERLITE SMELTER FACTORY.

Sterlite Industries (India) Limited is a subsidiary of Vedanta Resources Private Limited Company, a diversified and integrated metals and mining group. The Company is owned by Tr. Anil Agarwal, Industrialist, Pune based Indian National staying in London. The company engages primarily in the production of Copper, Copper cathodes etc., and the raw materials/minerals are transported from abroad.

9. The Sterlite Industries India Limited is located within the State Industries Promotion Corporation of Tamil Nadu (SIPCOT) complex in Meelavittan, Thoothukudi operating from 1997 and the industry is attached to the Smelter including a Refinery, a Phosphoric acid plant, a Sulphuric acid plant, a Copper rod plant and 3 Captive power plants. Sterlite Industries India Limited is the

Indian Copper producing unit of Vedanta Limited, a subsidiary of Vedanta resources, the UK based metals conglomerate. Sterlite Copper Industries is located within 25km of 4 of 21 islands in the Gulf of Mannar, a diverse and sensitive marine system.

10. The National Environmental Engineering Research Institute (NEERI) submitted a report in the Supreme Court in the year 2005, wherein it is stated that high concentrations of copper, lead, cadmium, arsenic, fluorides and fluorates are found in a sample of ground water taken from the neighbourhood of the plant. The Department of Community Medicine of Tirunelveli Medical College conducted a survey on the "health status and epidemiological study" around 5 km radius of the Sterlite Industries Limited. Their report is that they found high prevalence of asthma, pharyngitis, sinusitis and other respiratory tract infections and the presence of harmful gases and particulate irritants in the lower atmosphere. They also found an inexplicably high incidence of menstrual disorders like menorrhagia and dysmenorrhea in the women living in the area.

11. While so, the Vedanta has proposed to build another Copper Smelter at Theerkuveerapandiyapuram village to expand the company's total production from 4 lakh tonnes to 8 lakh tonnes a year and to make it a second biggest Copper Industry in the



STERILITE COPPER COMPANY

world. It appears that the Sterlite Industries obtained the environmental clearance from the Ministry of Environment, Forest and Climate change in the year 2009 to set up a 1200- tonne per day Copper Smelting complex in Thoothukudi without any public consultation. The Ministry of Environment, Forest and Climate change on the premise that the project's location is within the SIPCOT complex exempted it from conducting a public hearing otherwise required for Copper Smelters in terms of the Environmental Impact Assessment Notification, 2006. The proposed expansion unit of Sterlite project is located in the second phase scheme of SIPCOT in the name of Thoothukudi Industrial Park, which was given administrative sanction to acquire land in 1996 and significantly not in the existing SIPCOT complex.

12. When the proposed expansion was challenged, the High Court of Madras dismissed the Writ Petition in W.P.No.13810 of 2009 and W.P.No. 5691 of 2010 on 28.04.2016 and while dismissing the petition, the High Court had observed "In view of the consistent stand taken by all the authorities including SIPCOT that Sterlite Industries is situated within the SIPCOT complex, we have no difficulty in holding that exemption from public consultation would certainly apply". The Supreme Court in the year 2013 allowed the Sterlite Copper Smelter Plant to function in Thoothukudi in public interest. With the consent of Tamil Nadu Pollution Control

Board to establish a new plant in the year 2016, the Vedanta Limited started working on building of the proposed new Smelter.

13. However, Environmentalists like Nityanand Jayaraman and the protesters led by him have alleged that the Ministry of Environment, Forest and Climate Change, SIPCOT, Tamil Nadu Pollution Control Board and the Sterlite Industries had misled the Court about the location of the new plant. They alleged that the authorities have concealed the fact that the proposed complex is located on the land designated as "dry agricultural land" in the village area master plan as approved according to the Town and Country Planning Act, 1971. Further, Theerku Veerapandiyapuram village, a part of which land has been allotted to Sterlite Industries is not classified as "Special Industries and Hazardous use zone".

14. It appears that for the expansion of the factory, the management of Sterlite factory entered into contract with L & T Company which in turn brought 1000 labourers from North India along with their family for the construction work of the Sterlite Company. To make arrangements for the labourers to stay, L & T Company took 12 acres of land on monthly rental basis of Rs.10, 000/- per acre (From one Ramar and Mariyappan). They also sank deep bore wells in the lands.



PANDARAMPATTI

15. A Study conducted in 11 villages namely, Therku Veerapandiyapuram, A. Kumarareddiapuram, T. Kumaragiri at Kayaloorani, Saminathan, Chillanatham, Nainarpuram, Pudur Pandiapuram, Sankaraberi, Pandarampatti, Meelavittan and Madathur has revealed that 4049 families consisting of 13,264 persons are living in the abovesaid villages. Of this, 305 are working as contract labourers and 15 are working as permanent employees in the Sterlite Copper Industries India Limited. Considering their livelihood, 1010 of the villagers are supporting functioning of the industry in Thoothukudi. The remaining 12,254 villagers are against the industry and they are demanding closure of the Industry. It is seen that Sterlite Industries Limited has appointed L & T Company to construct the new plant on contract basis. Accordingly, L & T Company has employed thousands of contract labourers from Bihar and Orissa for the construction of the new plant and they are residing in temporary sheds erected by the L & T Company at Therku Veerapandiyapuram village. Aggrieved over this, the local residents raised their objection. Further, they draw water from the bore wells for their use and for the construction activity. This was objected to by the people of the abovesaid 11 villages. In this regard a Study made in the abovesaid villages appear to have disclosed that 48 people have suffered due to cancer, 49 due to renal failures and other issues, 78 women



105 MILLERPURAM

MILLERPURAM ROAD

suffered abortion, 137 suffered from Asthma and 100 have suffered from various skin diseases. That apart, 16 persons reported to have died in the year 2015, 28 in the year 2016 and 31 in the year 2017 and 2018 due to various diseases. These factors had impelled the villages in and around the Smelter Plant to resort to agitation against the plant.

16. 99 DAYS OF SIMMERRING PROTESTS- ITS CULMINATION IS THE FATEFUL EVENT ON 22ND MAY 2018.

The Commission would prefer at the threshold to refer to certain main events that had taken place off and on in the course of 99 days immediately preceding the occurrence that took place on 22nd and 23rd May 2018 which had a decisive impact in this behalf.

17. SIT-IN – PROTEST NEAR MGR PARK.

The first and foremost is the event that took place in the form of Sit-in protest in different villages. The residents of Kumareddiapuram and other villages in and around the SIPCOT plant of Sterlite staged Sit-in protest on 12th Feb 2018 even though there was prior protest against the Sterlite factory organised by Tmt. Fathima Babu who resorted to different methods of expressing grievances of the public at large. It would appear that when the

Sterlite Administration made preparations for expanding the operation of the Smelter plant, it smelt a rat for the public and it ignited the controversy which culminated in the occurrence on 22.05.2018. The apprehension of the public was that the quality of life and their livelihood were at stake in the event of Sterlite expanding the operation. It is in this context, about 500 men, women and children thronged in the MGR Park and undertook sit-in protest and fasting. This necessitated Tr. M.S. Prasanth, I.A.S **(RW 244)**, the then Sub-Collector of Thoothukudi and Tr. S. Selvanagaratinam, I.P.S., Joint Superintendent of Police (JSP) **(RW 242)**, of Thoothukudi, to visit the spot and persuade the people assembled there to give up the protest. The appeal of those two officers went unheeded and the gathering did not relent and continued the protest even in the night. It appears that the police resorted to a mild lathi-charge to disperse the crowd. It may be pointed out that an Advocate by name Thiru Vimal Rajesh **(PW 367)** rushed his aid and support to the protesters and was good enough to provide food to the protesters and this had led to the arrest of the said Advocate and certain others namely, Thiru Mahesh Prabhu, Tmt. Fathima Babu **(PW 333)**, Tr. Vimal Rajesh **(PW 367)**, Tr. Velraj **(PW 376)**, Tr. Albert Samuvel **(PW 331)**, Tr. Surjith **(PW 334)**, Tr. Durai N Pandiyan **(PW 360)**, Thiru Murugan **(PW 127)**, Tr. Kebastin **(PW 106)**, Tr. Ramachandran

(PW 330) in Cr.Nos. 96 of 2018, 97 of 2018 and 98 of 2018 of Thoothukudi South Police Station, the FIRs are marked as **Ex. P 187,188 and 189** respectively.

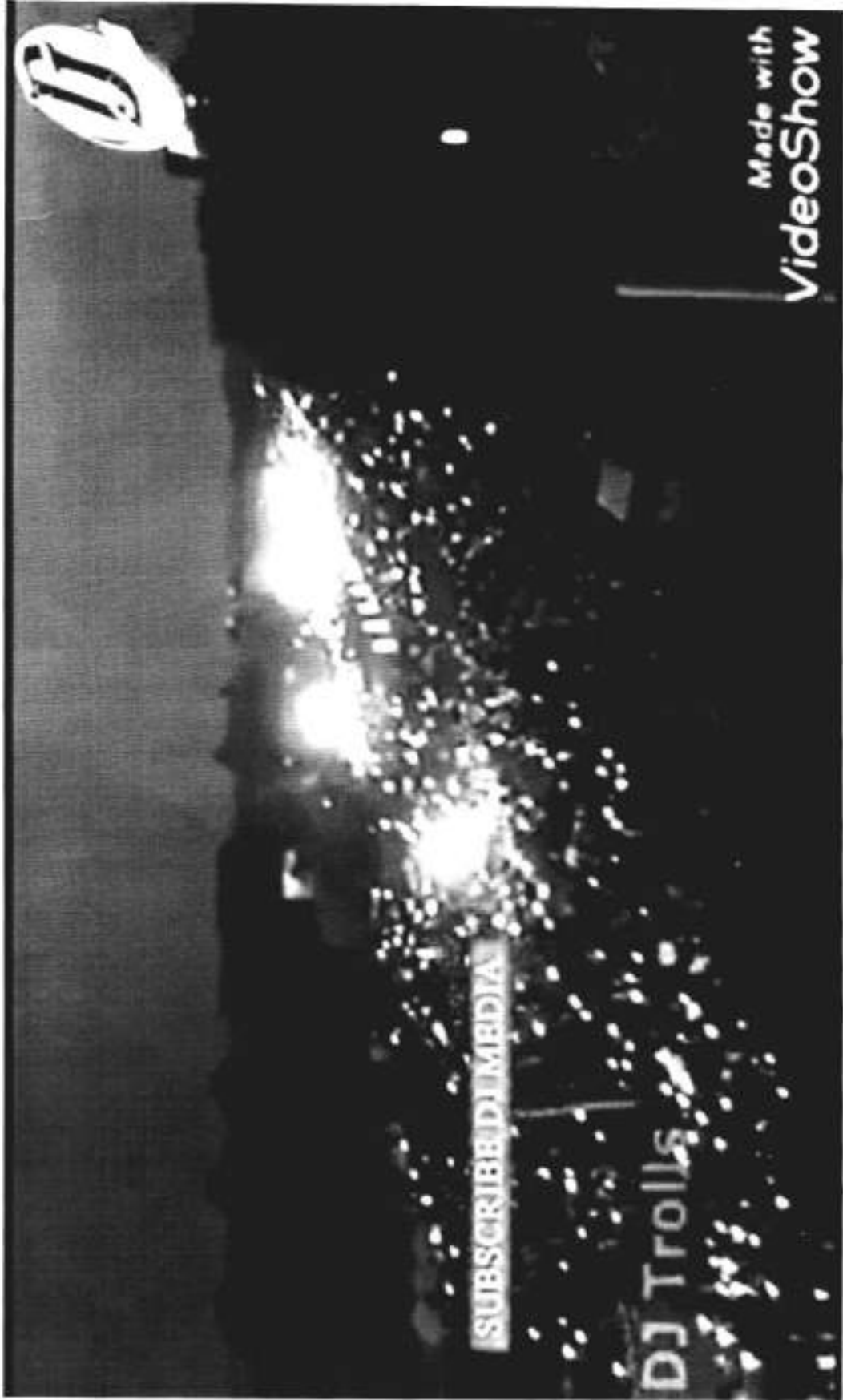
18. At this juncture, a reference may be made to the evidence of Tr. Velraj **(PW 376)** who is a functionary of the Naam Tamilar Katchi. He would depose before the Commission that there was a gathering of about 800 persons including womenfolk and pregnant women in the abovesaid protest and they were forced to board the Police vehicles and were taken to a marriage hall much against their will and the same was questioned by Tr. Velraj **(PW 376)** and the infuriated policemen singled him out, picked him in a police van which roamed around the town for more than an hour virtually making him apprehensive of danger to life or limb as also to terrorise, demoralise and to deter him from involving himself in the protest - all at the instance of Tr. S. Selvanagaratinam., I.P.S **(RW 242)** the then Joint Superintendent of Police (JSP).

19. In regard to the same incident, Tr. S. Selvanagaratinam, I.P.S., **(RW 242)** (JSP) has come out with his version that there was a gathering in MGR park (wrongly mentioned as Rajaji park) but without prior permission which led to the registering of cases against a few persons for involving

juveniles in the protest and for certain other offences. He would also add that his warning to disperse was ignored by the crowd resulting in removing the crowd from the site of the protest to the marriage hall.

20. Thiru M.S. Prasanth., I.A.S., the then Sub-Collector (**RW 244**) would speak about the same protest in his evidence. He would say that the protest was organized by the inhabitants of Theerkuveerapandiyapuram, it was sit-in protest near MGR Park, that the protest was so organized as not to cause any obstruction to the flow of traffic. It is thus evident that it was a disciplined crowd which did not indulge in any unlawful and objectionable activity at that point of time. He would further add that the crowd inspite of the assurance given by the District Administration that the matter would be sorted out at the level of the Government, did not disperse and persisted in the protest and the protest continued all through the night wherein women and school children also formed part of the protest. This would only show the determination of the crowd to proceed with the protest undeterred and nothing short of a concrete solution would be acceptable to the protesters. The Sub-Collector Tr. M.S. Prasanth., I.A.S., (**RW 244**) who is third in order in the hierarchy would appear to have acted at the instance of the then Collector Tr. N. Venkatesh., I.A.S., (**RW 243**) who was at his arm's length

but (District Collector) still avoided visiting the site of the protest which would certainly amount to abdication of his responsibility. Had the District Collector Tr. N. Venkatesh., I.A.S., **(RW 243)** as head of the administration plunged into action and visited the site of the protest, explained to the crowd the various steps taken to resolve the issue and impressed on them the need for giving up the protest in larger public interest and thereby facilitate a constructive dialogue between the administration and the protesters, the problem would have been nipped in the bud and the issue would not have snowballed into a problem of this magnitude. Significantly, the crowd comprised front line protesters such as Tmt. Fathima Babu, Tr. Mahesh, Tr. Velraj, Tr. Surjith and Tr. Ramachandran and the Collector, Tr. N. Venkatesh., I.A.S., **(RW 243)** could have seized the opportunity and opened a dialogue with them thereby impress upon them, the need for giving up the protest in the context of steps taken by the District Administration to resolve the issue by the Government. This would have had a decisive effect on the protesters when the protest was in the initial stage. This course of action dictated by the exigency of the situation having not been adopted by the District Collector, Tr. N. Venkatesh., I.A.S., **(RW 243)** the situation had gone from bad to worse resultant of the omission in this behalf.



24.03.2018 PUBLIC MEETING

21. At this point of time, the authorities gave an assurance that the issue would be brought to the notice of the Government for sorting out the problem. Though this episode ended, the issue remained unresolved. At this stage, social activists stepped in by presenting a petition to the then District Collector, Thiru N. Venkatesh I.A.S., **(RW 243)** pleading for the release of the said Advocate Tr. Vimal Rajesh **(PW 367)** and others and eventually they were released on bail.

22. PUBLIC MEETING NEAR CHIDAMBARAM NAGAR.

Close on the heels of the said protest, a public meeting was organised with the permission of the police wherein about 30,000 people gathered at the old bus stand near Chidambaram Nagar to protest against Sterlite factory, demanding permanent closure. 12,000 business enterprises pulled down their shutters in expression of solidarity with the protesters. As also, about more than 2000 fishermen refrained from fishing, risking their livelihood. Tr. Vanchinathan **(PW 357)**, Thiru Hariraghavan **(PW 381)**, both Advocates reportedly owing allegiance to Makkal Adhikaram Organisation, Tmt. Fathima Babu **(PW 333)** convener of Sterlite Edhirpu Makkal Kootieyakkam addressed the gathering and they are reported to have suggested to resort to intensifying the protest. The Police registered a case in Cr. No. 195/2018 of



24.03.2018 PUBLIC MEETING

South Police Station against some of those who reportedly addressed the gathering and delivered an inflammatory speech inciting violence; the FIR is marked as **Ex. R 196**; but significantly enough there was no law and order problem. The entire meeting was incident-free even according to the police as borne out by the evidence of Tr. S. Selvanagaratinam, I.P.S., (**RW 242**), Joint Superintendent of Police (JSP).

23. REFUSAL OF TAMIL NADU POLLUTION CONTROL BOARD TO RENEW THE LICENCE.

As the protest reached its 44th day, Sterlite factory shut its smelter for 15 days for maintenance. The Tamil Nadu Pollution Control Board (hereinafter referred to as TNPCB) refused to renew the licence after its maintenance-shutdown on 27.03.2018. Thiru Kannan (**CW 02**) Member Secretary incharge of TNPCB filed **Ex. C2 to C9** before the Commission wherefrom it could be gathered that the TNPCB rejected the Sterlite unit's application for resumption of work on the ground that the said unit has failed to comply with the conditions namely,

- a) Non furnishing of ground water analysis report taken from bore wells within the unit premises as well as the surrounding areas so as to ascertain the impact on ground water quality.
- b) Not removing the copper slag dumped/stored along the



24.03.2018 PUBLIC MEETING

river Uppar and Patta land, thereby obstructing the flow in reaching the river.

- c) Though authorization issued to the Sterlite plant got expired on 09.07.2013, but the unit continued to generate and dispose of Hazardous waste without valid Authorization under Hazardous and other waste.
- d) During the inspection on 22.02.2018, the unit was directed to construct a gypsum pond as per Central Pollution Control Board (CPCB) guidelines which has not been complied with till 31.03.2018.

24. The non-compliance with the conditions supra imposed by the TNPCB would appear to have entailed the disconnection of power supply and the consequential stoppage of the operation of the Smelter plant.

25. It appears that the public were not made aware of the refusal of TNPCB to renew the licence of the Sterlite Smelter. It is no doubt true, that this is a matter between the Sterlite factory and the TNPCB, but still having regard to the development that had been taking place in connection with the protest against the Sterlite factory, the District Administration ought to have put such a vital development in the public domain effectively and caused wide publicity to be given about the orders passed by the TNPCB and the resultant closure of the factory, which course of action would have had a mitigating effect on the seriousness of the situation.

26. In the meanwhile, as the agitation reached its 50th day, the students of schools and colleges joined the fray, indulged in boycott of classes in support of the protest. The villagers in and around smelter plant namely Meelavittan, Madathur, Mappilaiyurani, Korampallam, Silverpuram, VMS Nagar, Silukanpatti, Theerkuveerapandiyapuram and Ottapidaram presented petitions to the District Collector Tr. N. Venkatesh I.A.S., **(RW 243)** complaining that on account of the Hazardous emissions from the Sterlite Factory, the inhabitants of those village developed breathing difficulties as also various kinds of serious ailments such as cancer and skin diseases. The other villages in the vicinity followed suit.

27. PROTEST NEAR COLLECTORATE.

The protest which had hitherto been remaining localised and confined to the villages would appear to have spread over to the headquarters i.e. Thoothukudi town and as such on 09.04.2018, around 1000 villagers descended on the Collectorate demanding the closure of the Sterlite plant, when the District Collector Tr. N. Venkatesh I.A.S., **(RW 243)** was very much in the midst of his grievance day meeting (Monday). When the people insisted that the Collector, Tr. N. Venkatesh I.A.S., **(RW 243)** should meet them, the Superintendent of Police, Tr. P. Mahendran

(RW 248) took up the matter with the District Collector Tr. N. Venkatesh I.A.S., **(RW 243)** who retorted saying that if he relented it would set a wrong precedent and refused to meet them. After much persuasion he brought Tr. N. Venkatesh I.A.S., **(RW 243)** the Collector to the portico and arranged to meet the representatives of the people gathered there. The four way Palayamkottai road was choking with crowd impelling the authorities particularly the police to throw a cordon around the crowd and only the representatives of the gathering were permitted to meet the Collector Tr. N. Venkatesh I.A.S., **(RW 243)** to present their petitions for redressal of their grievances. The crowd would appear to have thinned away after an assurance from the District Collector Tr. N. Venkatesh I.A.S., **(RW 243)** through the Superintendent of Police Tr. P. Mahendran **(RW 248)** that their demands would be taken up with the Government. These facts are spoken to by Thiru Thiagarajan, PA (General) **(RW 183)** to Collector Tr. N. Venkatesh I.A.S., **(RW 243)** as also by Thiru Hariharan Inspector of Police, examined as **(RW 213)** and vouchsafed by the Collector Thiru N. Venkatesh I.A.S., **(RW 243)**. Significantly, Thiru Hariharan **(RW 213)** would tell the Commission in evidence that the protesters were heard expressing that they were planning to lay siege to the Collectorate on 22.05.2018 more significantly, coinciding with the 100th day of the protest. It is quite

baffling as to how the authorities missed this unequivocal message which was within the special knowledge of the jurisdiction Inspector of police, Tr. Hariharan (**RW 213**). Atleast at this point of time such a valuable information of far reaching consequences should have served as an eye opener for the authorities to act swiftly and promptly and the authorities should have highlighted the fact that by virtue of the orders of the TNPCB, the Smelter plant operations have been brought to a grinding halt and this position should have been made clear to the public at large. Prudence and diligence dictated that the authorities should have done everything within their power to defuse the situation taking every conceivable effort to bring about peace and tranquillity to prevail in a grave and passionate issue of this nature.

28. PROTEST BY POLITICAL PARTIES.

Now the stage is set for entry of the political parties in the cause of the protesters. Leaders of various political parties of different hues namely, Dravida Munnetra Kazhagam (DMK), Naam Tamilar Katchi (NTK) Tr. Seeman, Makkal Needhi Maiyam Tr. Kamal Hasan, Tamil Nadu Muslim Munnetra Kazhagam (TMMK) Tr. John Pandian, Amma Makkal Munnetra Kazhagam (AMMK) Tr. T.T.V. Dhinakaran, Maarumalarchi Dravida Munnetra Kazhagam (MDMK) Tr. Vaiko, Viduthalai Chiruthaigal Katchi (VCK) Tr. Thol. Thirumavalavan visited the villages on various dates and

extended their support to the agitation demanding closure of Sterlite factory. Tr. Sanmuganathan, the then AIADMK MLA from Srivaikundam presented a petition to DRO in person demanding the closure of the Sterlite Factory. On 04.04.2018, police arrested 127 CPI members for staging a demonstration without police permission and a case was registered in Cr. No 120/2018 of SIPCOT police station. About 300 Desiya Murpokku Dravida Kazhagam (DMDK) party workers led by its frontline leader Tmt. Premalatha Vijayakanth courted arrest on 08.04.2018 in Cr. No. 128/2018 of SIPCOT PS. This was followed by an agitation on 12.04.2018, 61st day of protest wherein members of Student Federation picketed the Collector's office peaceably and undertook a sit-in protest in the Collectorate complex. The said Organisation protested demanding that the Sterlite plant which had been closed for maintenance should be permanently closed. On the same day some miscreants had attacked factory-bus carrying the staff of the Sterlite plant causing injuries to a few of them and a case was registered in Cr. No. 140/2018 (**Ex. R1 series**) against Thiru Mahesh Prabhu, Thiru Mariselvam (**PW 336**), Thiru Tamilselvan (**PW 377**) and Tmt. Fathima Babu (**PW 333**).

29. WARNING BY DISTRICT COLLECTOR.

Thereafter, Tr. N. Venkatesh I.A.S., (**RW 243**), the then District Collector caused the issuance of a public notice in daily

newspapers dated 14.04.2018 carrying a warning that severe action would be taken against those anti-social elements who indulged in activities detrimental to the general public resulting in breach of peace and tranquillity. The said public notice details the various steps taken by the Government of Tamil Nadu to resolve the issue. It has pointedly been stated therein that the TNPCB by its proceedings dated 09.04.2018 had rejected the request of the smelter plant to resume the operations. In the self-same notice it has been stated that the peaceful protest of the protesters are being misdirected at the instance of the anti-social elements so as to cause disruption of the routine life of the public. Notwithstanding the said notice, the protest continued unabated and entered its 75th day on 26.04.2018.

30. While so, the Sterlite Smelter plant aggrieved by the order of the TNPCB refusing permission to resume operations, took up the matter with the Appellate authority on 4th May 2018, and TNPCB continued to resist the grant of relief and significantly enough no relief could be obtained from the Appellate authority either.

31. FAST- IN – PROTEST – BY TAMIL MANDHAN.

A reference may be made to a fasting undertaken by one Tamil Mandhan who was one of the organizers of the Anti

Sterlite Movement held between 9.00 am and 6.00pm on 05.05.2018. The requisite permission would appear to have been granted to the said Tamil Mandhan in pursuance of the order obtained by him from the Madurai Bench of the Madras High Court in WP (MD) 9114 of 2018. The said fast-in protest comprising of 200 persons ended incident free as is evident from the testimony of the Joint Superintendent of Police (JSP) Tr. S. Selvanagaratinam's I.P.S., **(RW 242)**

32. IN DOOR MEETING BY THE PROTESTERS TO PICKET THE COLLECTORATE.

In the meanwhile, the members of the Anti-Sterlite Movement conducted an indoor meeting at Pandarampatti Village on 06.05.2018 and subsequently at Rani Mahal in Thoothukudi town on 11.05.2018. The meeting was presided over by Tmt. Fathima Babu **(PW 333)**, organizer of Anti-Sterlite Movement and attended by Thiru Surjith **(PW 334)** (Revolutionary Youth Front), Thiru Vimalrajesh **(PW 367)** (Advocate and functionary of Viduthalai Chiruthaigal Katchi), Thiru Velraj **(PW 376)** (Naam Tamizhar Katchi), Thiru Arthur (Aam Athmi Party), Thiru Tamil Selvan **(PW 377)** (Owner of Mass Ambulance), Thiru Kebistan **(PW 106)**, Thiru Mahesh **(PW 123)** of South Veerapandiyapuram, Thiru Ponpandi, Thiru Kamaraj and Thiru Sundarapandian of Madathur, Thiru Sahayam **(PW 355)** and



IN COLLECTORATE MAIN ARCH BEFORE THE INCIDENT

Advocate Rajesh Kumar (**PW 121**) of Pandarampatti, Thiru Chandran and Thiru Murugan of Thevar Colony among others.

33. In that meeting, they decided to picket the District Collectorate, Thoothukudi on 22.05.2018 coinciding with the 100th day of their protest and passed a resolution to that effect. They started mobilising support to the picketing and relentlessly persuaded the members of the public to participate in the protest through social media, whatsapp, street corner meetings, issuing pamphlets etc. The various Associations such as Merchants Associations, Fishermen Associations, Farmer's Associations, Saltpan Labour Associations, Construction Labours Association and Tamil Nadu Disabled Persons Association extended their unconditional and unequivocal support for the picketing. Thus there was a clarion call for an all out bandh including the closure of schools, colleges and business establishments designed to paralyse and disrupt the routine life. The Superintendent of Police Tr. P. Mahendran (**RW 248**) after coming to know of the protest planned by the people to picket Collectorate requested Tr. N. Venkatesh I.A.S., (**RW 243**) the District Collector to send the Revenue people with the police officers to meet the Fishermen Community, Merchants Association to persuade them to drop the



VVD SIGNAL

plan of picketing. Though, the people were firm in their decision, however assured that there will not be any violent activities.

34. GATHERING AT VVD SIGNAL.

Earlier on 6th May 2018, the General public, Transgender community, Students and inhabitants of villages in and around the Sterlite plant again gathered at VVD signal near Chidambaram Nagar bus stop. Seven demands were put forth by the Anti-Sterlite committee formed by the protesters of which the following four demands deserve special mention.

- i) Permanent closure of the Sterlite plant,
- ii) A white paper on cancer in Thoothukudi since 1996,
- iii) setting up of a medical committee to study and report on the impact of the operation of the Sterlite on the health condition of the people whose land and water resources have reportedly been polluted and
- iv) Setting up of a Fact Finding Committee comprising member of civil society.

35. LETTER BY THE SUPERINTENDENT OF POLICE TO THE COLLECTOR TO CONDUCT SYSTEMATIC STUDY OF THE STERLITE ISSUE.

While so, even as early as on 10.04.2018, the then Superintendent of Police Tr. P. Mahendran **(RW 248)** has addressed a letter to the District Collector Tr. N. Venkatesh, I.A.S., **(RW 243)** marking a copy to both Inspector General of Police (IG) Tr. Shailesh Kumar Yadav., I.P.S., **(RW 247)**, South Zone and Deputy Inspector General of Police (DIG), Tirunelveli Range Tr. Kapil Kumar C Saratkar, I.P.S., **(RW 246)** furnishing details of various protests and agitation resorted to by the inhabitants of the several villages in the vicinity. He would also draw the attention of Tr. N. Venkatesh., I.A.S., **(RW 243)** the Collector, the involvement of Social Activists Tr. Agri Paramasivam, Tr. Thirumurugan Gandhi, President, May 17 Movement and Tmt. Fathima Babu, President, Sterlite opposition group. He would also furnish the details of registration of several cases in different crime numbers against the protesters. The Superintendent of Police, Tr. P. Mahendran **(RW 248)** in his anxiety to do something or other to salvage the situation and to prevent the scenario of various sections of society claiming to espouse the cause of the public at large, would call upon the District Collector, Tr. N. Venkatesh, I.A.S., **(RW 243)** to direct the conduct of systematic study of the entire issue, assess

the real impact of the Sterlite Industry and also to analyse the issues of airborne and water borne hazards, so as to bring to light the real dimensions of the issue. This would appear to be a well-meaning communication from the Superintendent of Police Tr. P. Mahendran(**RW 248**) to the District Collector Tr. N. Venkatesh., I.A.S (**RW 243**) prompted by considerations of bringing to an end an issue which might snowball into a grave situation of law and order.

36. ACCOUNTABILITY OF THE BUREAUCRACY AND IN PARTICULAR THE DISTRICT COLLECTOR.

It is noteworthy to mention here that the District Collector Tr. N. Venkatesh., I.A.S., (**RW 243**) did not respond to the said letter of the Superintendent of Police Tr. P. Mahendran (**RW 248**) dated 10.04.2018 by sending any reply, but would come forward to depose before this Commission that as early as on 26.03.2018 he sent Whatsapp messages to the then Chief Secretary of Tamil Nadu Tmt. Girija Vaidyanathan., I.A.S. (**RW 251**) suggesting the formation of a Committee consisting of Dean of Medical College, Joint and Deputy Director of Health services, two Oncologists of whom one to be a private practitioner for examining the pollution caused by Sterlite Smelter and its impact on the public at large. He would also add that in and by the



3rd MILE BRIDGE

same whatsapp messages formation of yet another Committee consisting of Environmental Engineers of Tamil Nadu Pollution Control Board (TNPCB), Experts of Anna University and IIT for supplementing the efforts of the other Committee was suggested by him. The relevant whatsapp is marked as **Ex. R 206**. His further evidence is that he had again sent whatsapp messages on 31.3.2018 and on various other dates bringing to the knowledge of the then Chief Secretary the closure of Sterlite factory on 10.04.2018 for maintenance purpose and that, the inhabitants of Pandrampatti, Sankaraperi, Theerku Veerapandiyapuram, Meelavittan and Madathur were indulging in protest without permission and that, cases were being registered but without effecting any arrest in order to avoid unpleasant developments, that the number of protesters was on the increase day by day and that, the college students also got involved in the protest. District Collector, Tr. N. Venkatesh I.A.S., (**RW 243**) would say before this Commission that he reiterated in his Whatsapp communication to the Chief Secretary that a Constitution of a High level Committee was necessary and that in such Committee non-governmental experts had to be included as also the oncologists in as much as complaints of cancer affliction had been made. The Chief Secretary according to Tr. N. Venkatesh I.A.S., (**RW 243**) the District Collector assured him that she would take it up with the Chief



3rd MILE BRIDGE

Minister for necessary action. As could be seen that the assurance would not appear to have fructified into concrete action and it remained only as an assurance for all times to come.

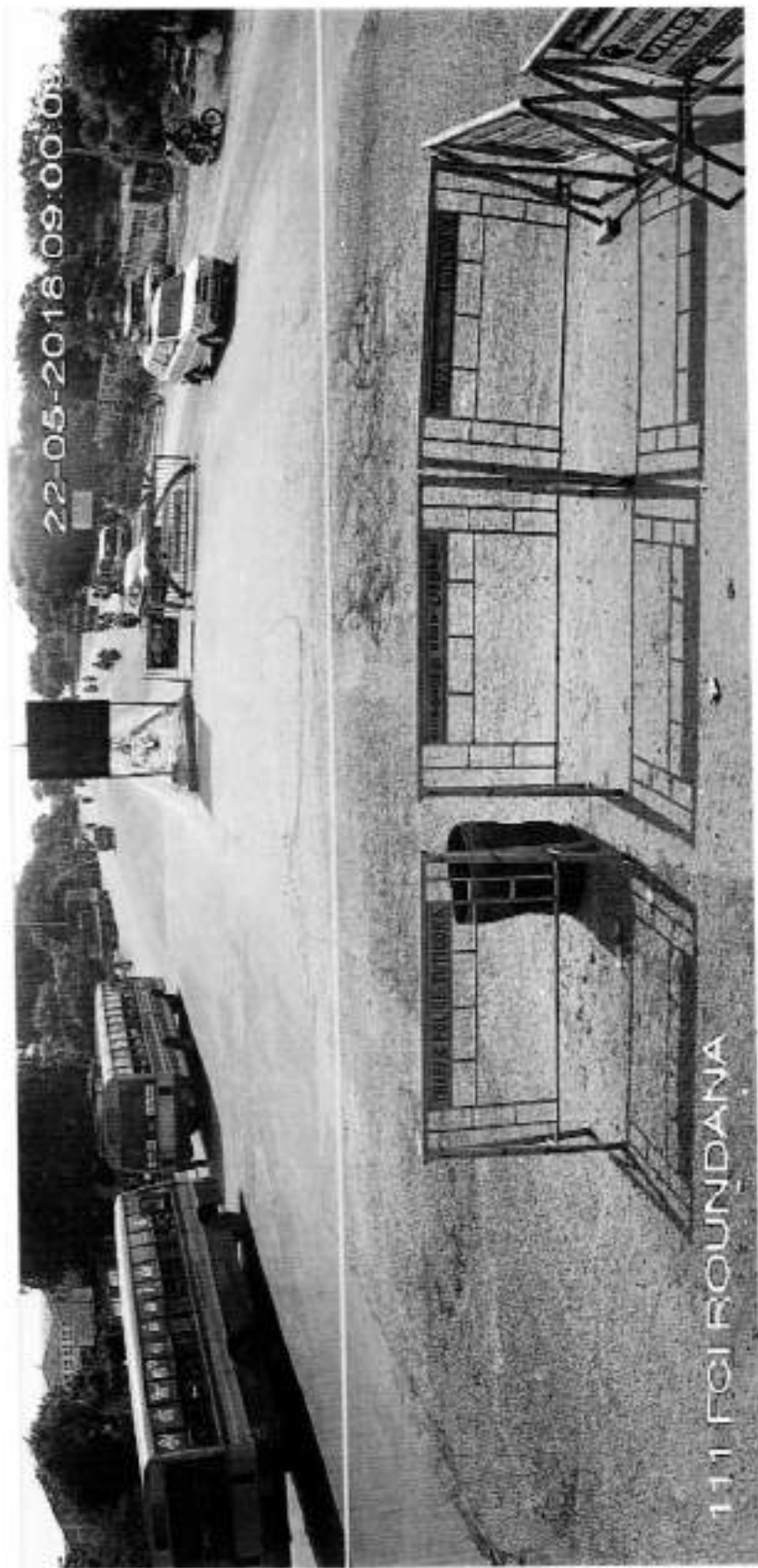
37. A pertinent reference may be made to the version of the then IG Intelligence Tr. K.N. Sathiyamurthy.,I.P.S., **(RW 249)** that he gathered intelligence reports that in as much as the Fisherman were not stirred into the sea in view of Fishing ban period, it was most likely that they would involve themselves in the protest prompted and persuaded by the leftist Organisations. The Intelligence thus gathered according to the witness had been promptly reported to the Director General of Police (DGP) Tr. K. Rajendran I.P.S., **(RW 253)**. He would also depose that in this behalf he met the then Chief Minister Thiru Edapadi K. Palaniswami at Salem and suggested to him that a dialogue could be opened with the Fisherman Associations through the Secretary, Fisheries Department in order to dissuade them from plunging into the protest. The then Chief Minister would appear to have responded saying that he would do the needful. Unfortunately, the well meaning efforts of the Intelligence Chief did not yield any result in as much as no follow up action was taken immediately thereafter to defuse the situation. The attention of the then Chief Minister was drawn specifically by none other than the Intelligence Chief of the State who travelled all the way to Salem to meet the



FCI GODOWN

Chief Minister presumably having regard to the gravity of the situation that prevailed in Thoothukudi. It is quite baffling to note how a message with a potential for grave law and order situation remained unattended even though the relevant Intelligence had been promptly conveyed to the Chief Minister. It would appear to be a classic instance of indifference and lethargy, and had this grave issue been seriously attended to, it is quite likely that the issue would have been tackled effectively at the initial stage itself.

38. The District Collector Tr. N. Venkatesh I.A.S., **(RW 243)** would appear to have kept the Officers up in the hierarchy informed of the developments regarding Sterlite protest. In the view of this Commission, the mere reporting of the developments unaccompanied by persistent action till concrete steps are taken by the Government at his instance would not be synonymous with efforts to bring to an end the then ongoing turbulent situation. This would only betray the callousness, complacency and dearth of a sense of responsibility on his part. It would be incumbent on the District Collector, Tr. N. Venkatesh, I.A.S., **(RW 243)** to have addressed an official letter or correspondence impressing on the Chief Secretary, Public Secretary the volatile situation that prevailed then and asked for immediate intervention but no material except Whatsapp messages had been produced before this Commission in this behalf. The



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mere messages in Whatsapp would not have had the desired impact when the Government day in and day out would be engaged in multifarious activities relating to governance of the entire State.

39. STERLITE APPROACHING THE HIGH COURT FOR PROTECTION.

In the meanwhile, there is an interesting development. The Vedanta Limited would apprehend that a protest on 22.05.2018 would take place and anticipating violence in the said protest filed a Writ Petition in WP (MD) 11190/2018 through its General Manager (Legal). The petitioner therein strangely enough claimed in the said Writ Petition the relief of imposition of an order under Sec 144 of Cr.P.C. to be imposed in an area of one km radius in and around the plant and the residential quarters Tamira I and Tamira II. The prayer in the said Writ Petition was to dispose of twin representations dated 09.04.2018 and 16.04.2018 wherein the petitioner would refer to various instances of violence and turbulence which are said to have taken place in Thoothukudi. At this juncture, it may be pointed out that the Writ Petitioner was no doubt well within his rights to refer to various incidents posing a danger to life and property of the Sterlite factory and ask for appropriate protection, but to stretch unduly the said right to virtually dictate to the District Administration that the provisions of Sec 144 Cr.P.C. should be invoked would be inappropriate and

would smack of a bigbrother attitude. The mere fact that it is a Corporate company having their operations in the area for a number of years would not clothe them with a privilege or right to impose their will on the District Administration who is required to have regard to ever so many situations in their permutation and combination and decide objectively the course of action to be chosen and resolve the conflicting interest of the public at large on one hand and the individual on the other. It would virtually amount to interference in the decision making process of the District Administration.

40. A pertinent reference may be made to the order of the High Court dated 18.05.2018 in the Writ Petition supra. The High Court by the said order has directed the District Administration to dispose of the representations of the Vedanta Limited dated 09.04.2018 and 16.04.2018. It is interesting to note that the High Court acting on the said representation had favoured the imposition of Sec 144 Cr.P.C. order in Thoothukudi. It is not gatherable from the orders of the High Court that the views of District Administration and Police Administration have been ascertained, by way of their counter affidavits for after all both the said authorities would have all the information and materials and ground realities within their special knowledge.

41. Tmt. Fathima Babu (**PW 333**) would in her endeavour to expose the irregularities committed by Vedanta Limited, would refer to a PIL filed by her before the High Court wherein she has putforth her case that Vedanta Limited obtained Environmental Clearance for the 2nd plant in 2009, renewed in 2015 and 2016 misrepresenting that the said 2nd plant is situate in SIPCOT phase I for which there is environmental clearance whereas factually and geographically the said 2nd plant is situate in SIPCOT phase 2 for which there is no environmental clearance as of now.

42. At the risk of repetition, it may be pointed out that TNPCB passed an order dated 09.04.2018 refusing permission to resume the operation of the Smelter plant. But in total disregard of the said order, the Smelter plant was carrying on its activities undeterred by the refusal of permission by TNPCB in this behalf. This state of affairs came to light on 18.05.2018 when the Pollution Control Board authorities made an inspection of the Smelter plant. This led to the TNPCB writing to the TANGEDCO to disconnect the power supply and to the said effect an order dated 23.05.2018 had been passed in G.O.Ms.No. 72 dated 28.05.2018 (**Ex. C8**) which endorses the closure-direction of the TNPCB. In the said GO itself, the TNPCB has been directed to seal the unit and close the plant permanently. Though the relief for which an agitation of such a magnitude has been launched had ultimately become a reality in as

much as it has happened after the occurrence on the fateful day i.e. 22.05.2018, the grant of such a relief could not have been of no avail in preventing the occurrence. It has become a "fait accompli" irreversible as it were. The Commission could not resist expressing its feeling that had the steps taken by the TNPCB as early as on 09.04.2018 refusing permission to resume operations been given wide publicity, had the factum of the inspection by the TNPCB on 18.05.2018 and 19.05.2018 and detection of violation of the order dated 09.04.2018 by the Sterlite factory during inspection and the factum of taking consequential steps for closure of the factory been brought to the knowledge of the public by wide publicity being given in this behalf and had the TNPCB, the District Administration and the Police coordinated effectively, the occurrence on the fateful day could have been certainly averted. The District Administration ought to have had the administrative acumen to arrange for periodic meetings and get together involving the representatives of the various hamlets, the frontliners of the agitation, representatives of the various organisations and outfits intimately involved in the protest and enlightened them as to the steps taken to resolve the issues and assuage their feelings. This would have prevented the situation going from bad to worse.

43. MEETING BY THE DISTRICT ADMINISTRATION

ON 18.05.2018.

Having gathered the information that in the meeting on 11.05.2018 the protesters decided to picket the Collectorate on 22.05.2018, the District Collector Tr. N. Venkatesh, I.A.S (**RW 243**) as head of the District Administration has held a meeting of the officials on 18.05.2018. The participants were Tr. Veerappan (**RW 245**) District Revenue Officer (DRO), Tr. M.S. Prasanth I.A.S., (**RW 244**) Sub-Collector, Tr. Thiagarajan PA (General)(**RW 183**) to Collector, Tr. P. Mahendran (**RW248**) Superintendent of Police, Tr. S. Selvanagaratinam, I.P.S., (**RW 242**) Joint Superintendent of Police and the Station House Officers. This meeting of the officials of the Revenue and Police was intended to discuss about the ongoing Anti Sterlite agitation with special reference to the proposed siege of the Collectorate and to evolve strategies to defuse the situation. Here and now it may be pointed out that officers who have a significant role to play like the Commissioner, Thoothukudi Corporation who is an IAS Officer and the Public Health authorities were not invited to join the discussion. It may be pointed out that the Corporation Commissioner is a member of the District Disaster Management authority of which the District Collector is the Chairman. The role of the Corporation

Commissionerate assumes significance since it is its domain to ensure that the venue of agitation and the routes of the protesters are kept and maintained without any obstruction and also make it free of stones, bricks or other like materials, so that the protesters in the event of eruption of any violence do not use those materials as missiles. An officer who has such an important role to perform was not involved in the discussion and he has been left out of the meeting for reasons best known to the District Administration. From the evidence of Dr. Alby John Varghese, I.A.S., before this Commission (**CW 04**), it could be discerned that he has not been invited to participate in the said official meeting conducted by the Tr. N. Venkatesh., I.A.S., (**RW 243**) District Collector notwithstanding the fact that he himself is the member of the District Disaster Management Authority. He was also not involved by the District Collector to participate in the peace talks held on the following day i.e. on 20.05.2018. As a matter of fact, even routine weekly meeting would not appear to have been held from 18.05.2018 to 22.05.2018 in the District Collectorate wherein the Corporation Commissioner could have participated. His evidence (**CW 04**) before this Commission would also disclose that he was quite casual and indifferent towards the serious development that was taking place around the entire Thoothukudi town. He did not seem to have had the irreducible minimum of curiosity expected of

anyone as to what was happening in the vicinity. He is a young IAS Officer and he is expected to be alert and be alive to the ground realities. He ought to have either on his own or being invited or involved by the District Collector, Tr. N. Venkatesh, I.A.S., **(RW 243)** who must be relatively a senior IAS Officer, exhibited diligence and prudence expected of an officer of Indian Administrative service which is held in high esteem by the general public.

44. ACCOUNTABILITY OF DISTRICT PUBLIC HEALTH SERVICES INCLUDING DIRECTORATE OF MEDICAL AND RURAL HEALTH SERVICES.

The chief grievance of the people at large is that the operations in the Smelter plant have led to serious health issues of the public, such as cancer, skin disease and respiratory problem and so on and as such the District Public Health authorities have a definite role to play. It would be incumbent on them to make a probe into the health issue of the people at large, collected data and examined the entirety of the issue objectively and made necessary reports to the higher ups in hierarchy. The District Collector Tr. N. Venkatesh, I.A.S., **(RW 243)** ought to have co-ordinated with the Public Health authorities and should have made efforts to address the issue with all sincerity all the while enlightening the public as to the various steps taken by the



BYPASS BRIDGE

authorities in this regard. Thus the failure and lapse on the District Collector Tr. N. Venkatesh .,I.A.S.,**(RW 243)** as also Public Health Services authority are so very glaring and would only invite the comment and criticism that they were irresponsible and impervious to the sufferings of the people at large. There are as many as 8 hamlets in and around Smelter plant and it is the inhabitants of those hamlets who could make a grievance that their health has suffered on account of the deleterious effects of the Smelter plant on the ecology of the area, by virtue of their geographical proximity. If so, it could be expected reasonably that the District Administration with the help of Public Health authorities in particular ought to have focussed on these hamlets, made a probe and study of the health issues of those people and depending on the outcome of such an exercise adopted measures to resolve those health issues. Obviously, but bafflingly the public authorities have not been taken into confidence by Tr. N. Venkatesh., I.A.S., **(RW 243)** the District Collector and no serious exercise in this direction has been undertaken-the public health services authority has not been invited and involved in the discussion that took place on 18.05.2018 as between the officials of revenue and police departments.



COLLECTORATE CAR PARKING

45. PEACE COMMITTEE MEETING ON 20.05.2018.

It could be gathered from the evidence of Tr. N. Venkatesh., I.A.S (**RW 243**) the District Collector that in the meeting held on 18.05.2018, it was decided that the protesters had to be invited for peace talks and persuaded to give up the proposed picketing of the Collectorate and should the protesters remained relentless then request them to protest peaceably in another place. In pursuance thereof, the Sub-Collector Tr. M.S. Prasanth., I.A.S (**RW 244**) on the instructions of Tr. N. Venkatesh., I.A.S (**RW 243**) District Collector, held a peace committee meeting on 20.05.2018. In the said meeting the Sub-Collector Tr. M.S. Prasanth., I.A.S., (**RW 244**), Tahsildars, Revenue Inspectors, VAOs participated representing the Revenue Department and on the side of police department, Tr. P. Mahendran (**RW 248**), the Superintendent of Police, Tr. S. Selvanagaratinam., I.P.S., (**RW 242**), Joint Superintendent of Police, Tr. Muthamizh (**RW 217**), Deputy Superintendent of Police, Rural and Inspectors of Police had participated. The Collector and Tr. Verappan (**RW 245**) the District Revenue Officer (DRO) who are the top two in the hierarchy were conspicuous by their absence. It defies analysis as to how and why the District Collector, Tr. N. Venkatesh., I.A.S., (**RW 243**) when faced with such a volatile situation where the protesters were determined to go ahead

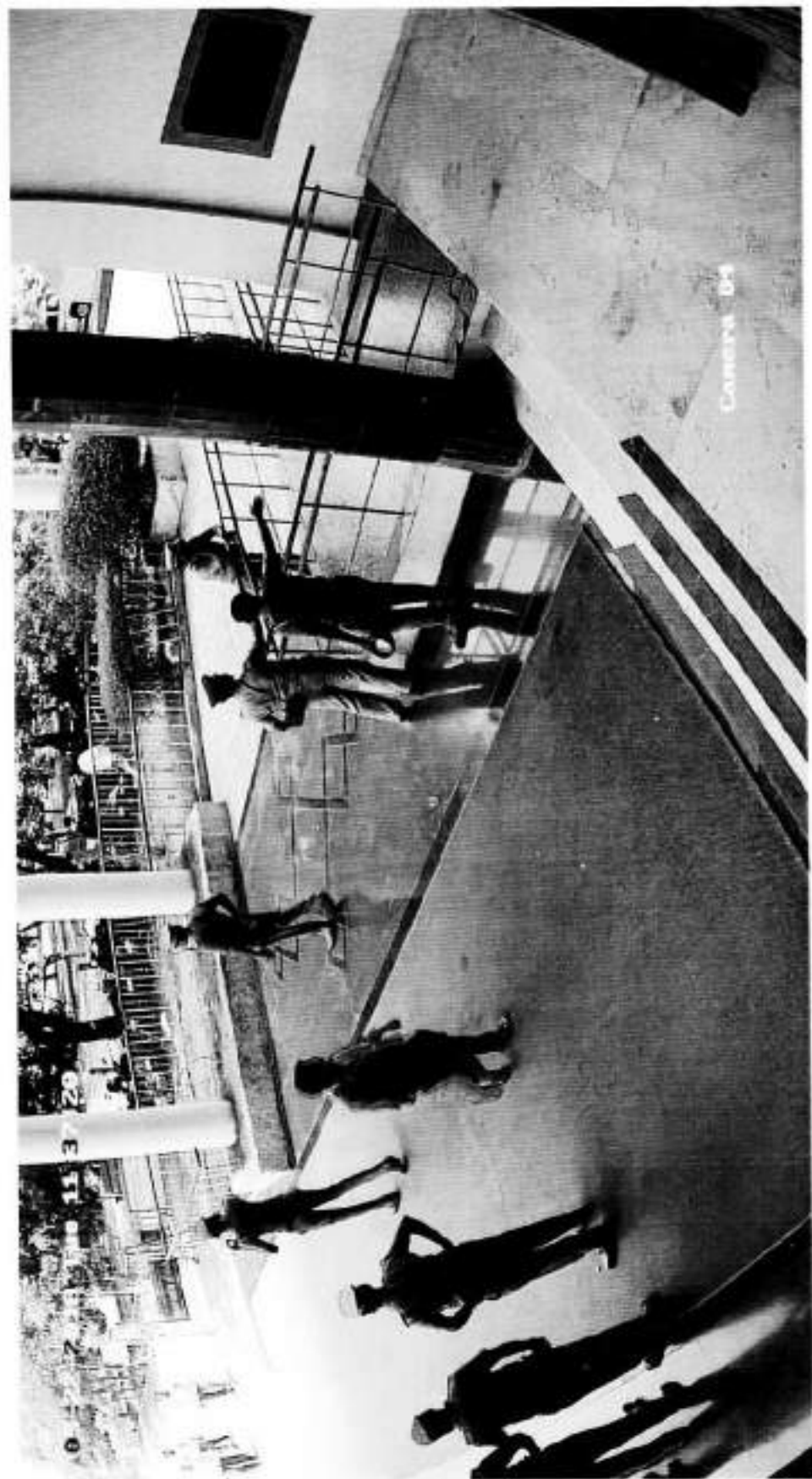


COLLECTORATE CAR PARKING

with the picketing abstained himself from the peace talks leaving the Sub-Collector, Tr. M.S. Prasanth., I.A.S., **(RW 244)**, who is third in order in hierarchy to fend for himself.

46. What is agonising is that the District Collector Tr. N. Venkatesh., I.A.S **(RW 243)** grappled with the sensational issue has thought it fit to abstain from presiding over the Peace Committee Meeting and left it to be light heartedly dealt with by the third in order, Tr. M.S. Prasanth., I.A.S.,**(RW 244)** the Sub-Collector. At this juncture a pertinent reference may be made to **Ex. R 124**, dated 13.07.2018 addressed to Tr. N. Venkatesh., I.A.S., **(RW 243)**, the Collector by the Commission as to his availability on the said date and **Ex. R 125**, the reply thereto dated 18.07.2018. It is candidly clear from **Ex. R 125** that the Collector was very much available in the camp office that is his official residence on 20.05.2018 which would only mean that he has avoided attending the meeting for reasons best known to him.

47. No political party involved in the agitation was invited. An alert message from the State Intelligence has been received by the Superintendent of Police, Thoothukudi Tr. P. Mahendran **(RW 248)** marking a copy to the Inspector General of Police (IG), Southern Zone, and Deputy Inspector General of Police (DIG), Tirunelveli range that Makkal Adhigaram, Democratic Youth



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Federation of India (DYFI), Student Federation of Thoothukudi were planning to picket the Collectorate and indulge in arson. It is noteworthy that the District authority who arranged for the Peace Committee Meeting did not think it fit to invite Makkal Adhigaram, Democratic Youth Federation of India (DYFI), and Student Federation of Thoothukudi for the discussion. Not only that, those organizations which were intimately involved in the agitation-be it political, religious or otherwise were also not invited and were excluded from the discussion in peace committee meeting. Information trickled down that in the prayer meetings held in different churches that the burning issue was being discussed and Christian Community was persuaded to take part in the protest to be held on 22.05.2018. This information should have in the ordinary course made the District Administration to invite them for the discussion in the peace committee meeting. It remains unexplained as to why the Christian community was omitted to be included in the discussion. There is a spectacle of involving far less known organizations and far less committed Organizations invited for the discussion and those organizations which were very keen about proceeding with the protest have been deliberately left out of the purview of discussion. If the Christian community had been invited and involved in the discussion, it would have had a salubrious effect of persuading the Christian community as a whole



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to refrain from participating in the protest to be held on 22.05.2018 for, after all the collective will of the community will certainly prevail over the will of the individual. This holds good for any community, section or group of people.

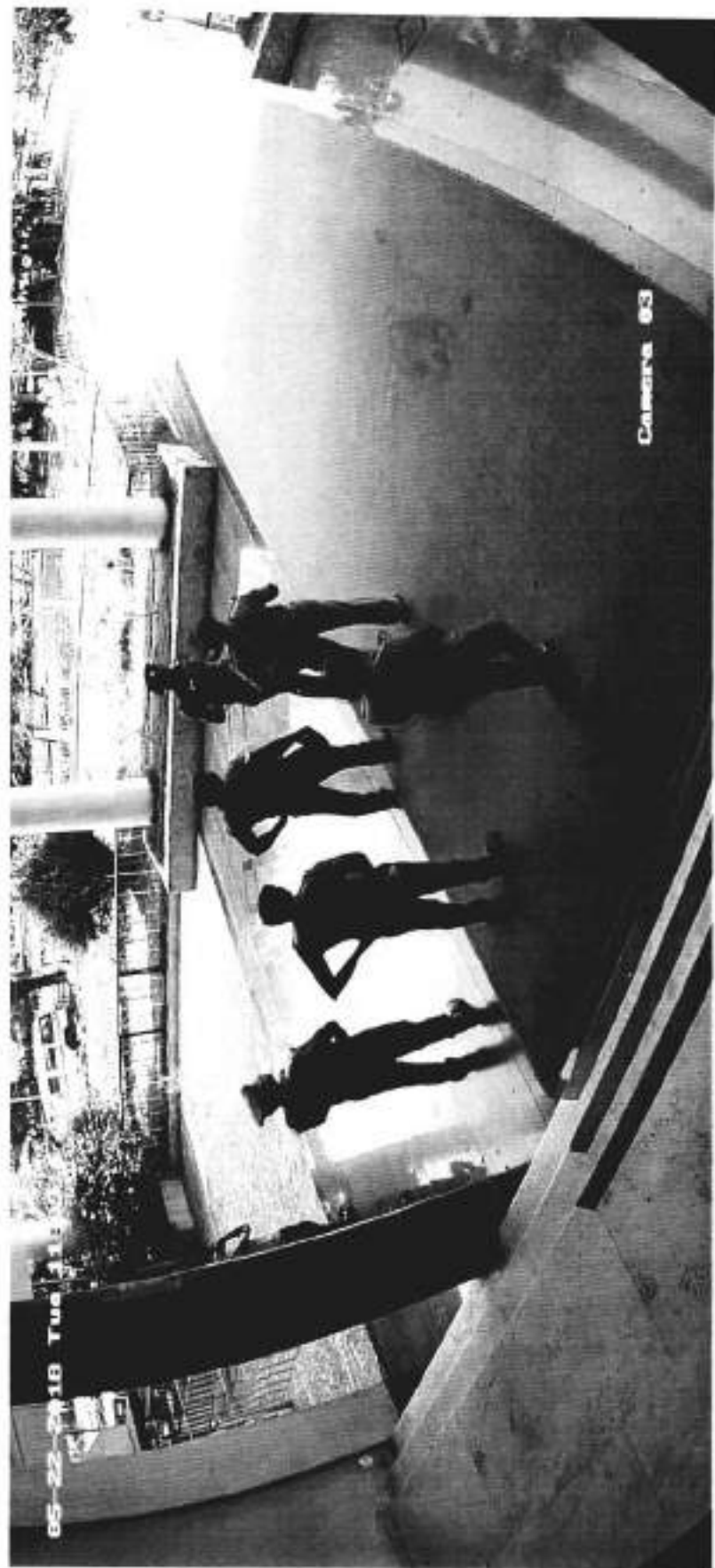
48. A communication no doubt would appear to have been sent to one Tr. S.P Ramachandran (**PW 330**) on the basis that he belongs to Makkal Adhigaram Amaipu but the said Tr. S.P. Ramachandran (**PW 330**) disowned the said Organization and had left three years ago. However, he would attend the meeting on 20.05.2018 in his own individual capacity as could be seen from his evidence before the Commission. The point this Commission seeks to make is that preceding the Peace Committee Meeting on 20.05.2018 notice/invitations has not been served on the organizations like Makkal Adhigaram, Democratic Youth Federation of India (DYFI), and Student Federation. Those who participated in the discussion in the Peace Committee Meeting were not organizations which were committedly involved in the protest presumably the idea would appear to give an impression that though few organizations were invited for the discussion but in fact those organizations which took up the cudgel with all sincerity were designedly excluded. This only prompts the Commission to observe that the Peace Committee was more ceremonious and perfunctory than real.



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49. In the Peace Committee Meeting it was suggested by the District Administration that the protest could be organized in the S.A.V school grounds instead of VVD signal at Chidambaram Nagar where the public wanted to stage the protest. Taking exception to such a suggestion, a few of these who participated staged a walk out persisting in their plans to picket the Collectorate.

50. Though the attendance of the participants on the side of the public in the Peace Committee Meeting is evidenced by a document **Ex. R 219** and **Ex. R 220** containing their signatures but still there is no material available on record to show that the participants subscribed their signature to the outcome of the peace talks. It would be seen from the evidence of the Sub-Collector, Tr. M.S. Prasanth., I.A.S., (**RW 244**) that sixty to seventy percent of the participants agreed to abide by the decision taken in the peace talks which would only show that there was no unanimity among the participants on the side of the public. The officials who participated in the peace talks would appear to have persuaded the participants to give up their plans of picketing the Collectorate and suggested to the participants to express their protest by way of "call attention" in the S.A.V school grounds. Though it has been stated by him in his evidence that the participants after some



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discussion among themselves in the course of peace talks, turned round and agreed to the proposal of the District Administration and Police in this regard, in as much as there was no unanimity in the opinion on the part of the participants compounded by the fact that many of the key front line Organizations have been left out of the peace talks, the impression formed by the District Administration that there had been an agreement between the District and Police Administration on the one side and the participants on the other, would not be tenable and would not reflect the correct appreciation of the situation that prevailed then.

51. At this juncture, it may be pointed out that the District Administration failed to ensure that invitation was extended to such of the Organization which were committedly involved in the ongoing protest such as Makkal Adhikaram, Democratic Youth Federation of India (DYSF), Students Federation, Nam Tamilar Katchi etc. and the omission in this behalf has not been properly explained and what little explanation forthcoming from the District Administration that there was shortage of time could hardly be countenanced. It has to be pointed out that no official communication regarding the conduct of the peace talks had been extended to the participants and the version that the participants had been communicated through mobile in the eleventh hour by the police is evident from the testimony of Tr. Isakimuthu



THERSPURAM

(PW 368), President of Muthu Kulipor Sangam, Tr. S. Nadarajan **(PW 369)** , Thoothukudi town mini bus owners Association, Tr. Jerome **(PW 370)**, Member of Krishthuva Valvurimai Sangam, Thiru M.S.P. Thenraj **(PW 374)**, Dhanpadu salt exporters Association and Tmt. Fathima Babu **(PW 333)** a frontline protester, would betray the halfhearted approach of the District Administration reducing the entire exercise to a farce. Those who participated in the peace talks could not be said to represent a true cross section of the protesters. The invitation to different participants suffers from the vice of arbitrariness and whimsicality in as much as those who were really and seriously involved in the protest were not invited for the peace talks.

52. Those who could not see eye to eye with the District Administration in regard to the venue of protest and the giving up of proposal to picket the Collectorate, organized a meeting of their own and decided to go ahead with the proposal of picketing the Collectorate and a section of traders, left wing organizations, some political parties and Fisherman Association extended their support and threw their weight behind the ongoing protest.

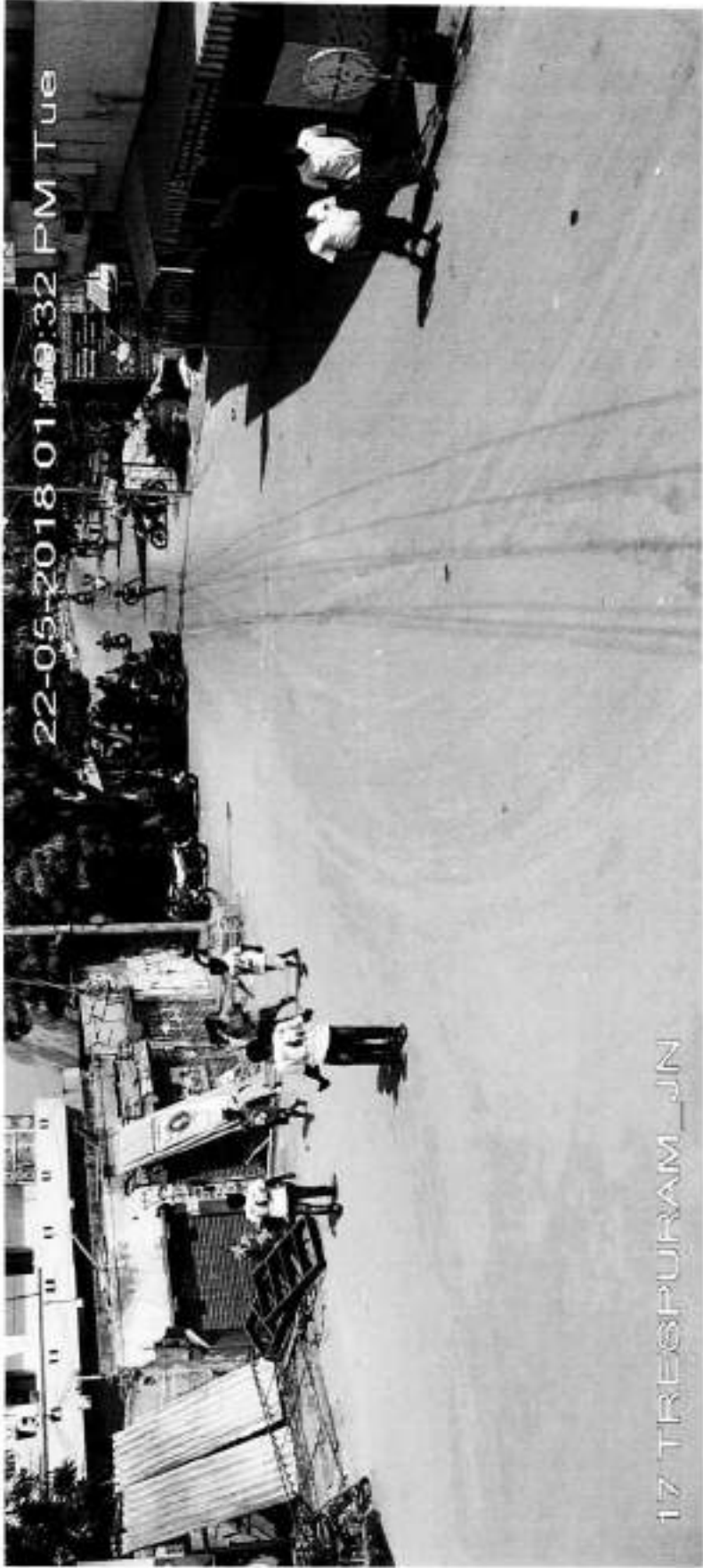
53. At this juncture it would be apposite to refer to the testimony of Tr. P. Mahendran Superintendent of Police **(RW 248)** before this Commission. He adverts to in his evidence the factum of



TRESPURAM JUNCTION

briefing the participants of the Peace Committee Meeting about the refusal of Tamil Nadu Pollution Control Board (TNPCB) to renew the licence of the Sterlite Smelter plant and the consequential discontinuance of the operation of the Smelter plant as also the Hon'ble High Court passing an order in WP. No 11190/2018 directing the District Administration to consider the imposition of order under Sec 144 Cr.P.C. in Thoothukudi. **Ex. R 219** is the proceedings of the Peace Committee Meeting. But, there is a total absence of any reference to the happenings in the Peace Committee Meeting as spoken to by the Superintendent of Police Tr. P. Mahendran (**RW 248**) in his evidence. It may be an inconsequential omission. Be that as it may, a perusal of **Ex. R 219** would reveal that consensus was reached on three issues,

- i) The first of which is to grant permission for a "Call Attention Protest" on 22.05.2018 between 10.00 am and 5.00 pm to be conducted in a peaceful manner in S.A.V school grounds.
- ii) Followed by a decision to consider the conduct of yet another Peace Committee Meeting to be presided over by the District Collector himself consolidating and involving all the stake holders.
- iii) The third in the series is that the District Administration is to take necessary steps to facilitate the "Sterlite Edhirpu Kootu Iyakkam" to meet the Hon'ble Chief Minister for sorting out the issues which led to the protest.



TRESPURAM JUNCTION

A reference has to be made again to the evidence of Superintendent of Police, Thoothukudi, Tr. P. Mahendran **(RW 248)** in the context of arisal of a question as to what necessitated the conduct of second Peace Committee Meeting. It is his evidence that in as much as the District Collector Tr. N. Venkatesh., I.A.S **(RW 243)** skipped the first Peace Committee Meeting, the need has now arisen to hold yet another Peace Committee Meeting to be presided over by Tr. N. Venkatesh., I.A.S **(RW 243)** the District Collector involving the participants in the Peace Committee Meeting and also those representing the respective Organisations who were keen on being informed of the steps to be taken by Tr. N. Venkatesh., I.A.S **(RW 243)** the District Collector for permanent closure of the Smelter plant.

54. The Superintendent of Police Tr. P. Mahendran **(RW 248)** also speaks to the factum of his meeting the IG South Zone, Tr. Shailesh Kumar Yadav, I.P.S.,**(RW 247)** and DIG, Tirunelveli Range, Tr. Kapil Kumar C Saratkar, I.P.S., **(RW 246)** who were then camping at District Police office, Thoothukudi and briefing both of them as to the split among the protesters in regard to venue of protest. According to him a detailed bandobust scheme was drawn on the night of the 20.05.2018 on the advice of IG and DIG.



PANNIMAYA MADHA TEMPLE

55. Here and now, the version of the then State Intelligence I.G. Tr. K.N. Sathyamurthy, I.P.S (**RW 249**), Tr. Shailesh Kumar Yadav.,I.P.S (**RW 247**) the then IG South Zone, Thiru Kapil Kumar C Saratkar,I.P.S., (**RW 246**) the then DIG Tirunelveli Range, Tr. A. Muthamizh (**RW 217**) the then Additional Superintendent of Police, Rural Division, Tr. Hariharan (**RW 213**) the then Inspector of Police, SIPCOT Police Station in regard to the split among the protesters in the Peace Committee Meeting regarding the venue deserve to be dealt with. The IG Intelligence Tr. K.N. Sathyamurthy, I.P.S (**RW 249**) speaks to the receipt of intelligence that there were two groups one led by Tmt. Fathima Babu organizer of Sterlite Opposition Movement who was in favour of conducting the protest in S.A.V school grounds with the permission of the police on 22.05.2018 and the other group opposed to Tmt. Fathima Babu which was bent upon picketing the Collectorate in disregard of prohibitory orders by mobilising a large number of people. He would add that he instructed the Superintendent of Police, Special Branch CID to pass on the said intelligence to Director General of Police (DGP), Additional Director General of Police (ADGP) (Law & Order) and to send a report in this behalf to the Superintendent of Police, Thoothukudi, DIG Tirunelveli Range, IG South Zone. It could be known from his evidence that his instruction to Special Branch, CID



SAV GROUND

had been carried into effect and in particular the Superintendent of Police, Thoothukudi Tr. P. Mahendran (**RW 248**) was sent an alert message in this regard.

56. The IG, South Zone examined as **RW 247**, Tr. Shailesh Kumar Yadav, I.P.S., would also in his evidence refer to the requisition of Tmt. Fathima Babu seeking permission to stage a protest in S.A.V school grounds and the factum of that some of the protesters who though participated in the Peace Committee talks but were decisively firm to go ahead with the proposed plan of picketing the Collectorate on 22.05.2018.

57. Further, the DIG Tr. Kapil Kumar C Saratkar I.P.S., (**RW 246**), would also affirm on the basis of the input given by Tr. S. Selvanagaratinam, I.P.S., (**RW 242**) Joint Superintendent of Police (JSP), that a group of people who participated in the peace talks declined to give up the picketing the Collectorate. The then Additional Superintendent of Police, Rural Tr. Muthamizh (**RW 217**) would also reiterate that Tmt. Fathima Babu was agreeable for staging the protest in S.A.V school grounds but Madathur Tr. Ponpandi and few others rejected the said proposal and decided to pursue their plan of action. The fact that there had been cleavage of opinion among the protesters gets amply corroborated by the evidence of Tr. Hariharan, the then Inspector



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of Police, SIPCOT PS (**RW 213**) who knew the ground realities as a police officer on the spot dealing with law and order. He would only reinforce the versions of the foregoing official witnesses, who are officials up in the hierarchy to the effect that the Organisations namely Fisherman Organisations, Revolutionary Youth Front, a few Merchant Associations and a few village leaders were not amenable for the peace talks and staged a walk out from the District Collectorate the venue of peace talks declaring that the protest on 22.05.2018 would be pursued as per plan to picket the District Collectorate.

58. Viewed in the backdrop of the versions of the various official witnesses it would be candidly clear that there was a vertical split among the protesters and such a scenario should have served as an eye opener to the District Administration to swing into further action since 22.05.2018 was not far off then. There is no material on which this Commission would lay hands on to show that any serious attempt was made to contain the volatile situation then prevailed except the ipse-dixit of the official witnesses.

59. The District Collector, Tr. N. Venkatesh, I.A.S., (**RW 243**) would depose that on the previous day (21.05.2018) he discussed with the Superintendent of Police Tr. P. Mahendran (**RW 248**) and the Sub-Collector Tr. M.S. Prasanth, I.A.S.,

(RW 244) about the bandobust arrangements to be made to the Call Attention protest which was to be held on 22.05.2018 in S.A.V school grounds over mobile phone. The highlight is that the self same District Collector would add that till 21.05.2018 he was not in the know of the picketing plan of the District Collectorate. This does not command credence at all and will not stand a moment's scrutiny for after all, the Superintendent of Police, DIG and IG were all physically present in Thoothukudi on 21.05.2018 itself and all those three top ranking police officials, according to Tr. K.N. Sathyamurthy, I.P.S., **(RW 249)** the IG Intelligence, have been posted with the crucial information/ intelligence that the situation on ground was going from bad to worse. It would appear that the claim of the District Collector that neither the IG, South Zone nor the DIG Tirunelveli range , nor the Superintendent of Police shared with him the intelligence input is only to be rejected in the threshold itself. The earlier Peace Committee talks presided over by Tr. M.S. Prasanth, I.A.S., **(RW 244)** the Sub-Collector having ended in a fiasco, it should have been immediately followed by another Peace Committee Meeting by, Tr. N. Venkatesh, I.A.S., **(RW 243)** the District Collector which was contemplated even on the earlier peace talks. It is for reasons best known to the District Administration in particular the District Collector as to why the next Peace Committee talks were not held. To putforth a plea that only a



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short period of time i.e. a couple of days was available between 20.05.2018 and 22.05.2018 could hardly be countenanced for after all depending on the exigencies of the situation that the District Administration ought to have organised another Peace Committee talks expeditiously, the first Peace Committee talks having aborted. It is not as though there was an error of judgement in assessing the gravity of the situation and the view of this Commission is that there is total inaction, lethargy, complacency and dereliction of duty on the part of District Administration.

60. INFIRMITIES IN THE PREVENTIVE ACTION

At the risk of repetition, it may be stated that the State Intelligence had been posting the Superintendent of Police, Tr. P. Mahendran (**RW 248**) with alert messages that the protesters were unrelenting in their plan to picket the Collectorate and in the course of such picketing, indulge in arson and thereby causing damage to properties belonging to the Government. These intelligence inputs have also been brought to the knowledge of Deputy Inspector of Police (DIG), Tirunelveli Range and IG South Zone promptly. It may be recalled that the IG, Intelligence himself had met the then CM at Salem and impressed upon him the need for opening a dialogue with the Fishermen who were not then venturing into the sea for fishing due to the fishing ban period, and the CM had given the IG Intelligence to understand that the needful

would be done which turned out to be a promise unaccompanied by any concrete action in this behalf. It is quite astonishing that the District Collector in his evidence pleads ignorance of all these developments till the damage is done and lives have been lost, properties have been destroyed in the unfortunate incident on 22.05.2018. At this juncture, a reference to Police Standing Order 698 would be quite germane. A close reading of the provisions of the said PSO enjoins the local officers which includes the District Collector and Superintendent of Police Tr. P. Mahendran **(RW 248)** to keep continuous and uninterrupted watch and vigil over developments from the very early stages. It has been unambiguously mandated in clause (i) therein that the District Collector must make effective arrangements to see that he is fully and continuously kept abreast of the situation as it develops. The said provision fastens the entire responsibility for such liaison between the different departments of the Government entirely on the District Collector. In Clause (ii) of the said PSO, the important duty of the police has been underscored. While so doing, collection of information about every movement, state of feeling, dispute or incident which may lead to breach of peace has been made imperative. The information thus collected have been directed to be shared with Tr. N. Venkatesh, I.A.S., **(RW 243)** the District Collector. Thus the coordination between the police and the District

Collector in this behalf has been made indispensable. (**Sine qua non**).

61. For a better appreciation of the factual aspects of preventively detaining some trouble shooters, reference has to be necessarily made to a FAX message emanating from IG, Intelligence and sent to Superintendent of Police (SP), Thoothukudi Tr. P. Mahendran (**RW 248**) on 13.05.2018 vide **EX. R 242**. It could be gathered from the said FAX message that in an indoor meeting on 11.05.2018 at Bryant Nagar, Thoothukudi town, South PS limits it was decided by PUCL and Sterlite Edhirpu Kootamaipu to proceed with the demonstration on 22.05.2018 against Sterlite factory, and to picket the Collectorate on the same day by taking out a rally from VVD signal, Thoothukudi mustering about one lakh villagers in and around Thoothukudi. The FAX message has been received and responded to by the Superintendent of Police, Thoothukudi Tr. P. Mahendran (**RW 248**) on the same day. i.e. on 13.05.2018 itself wherein the Superintendent of Police Tr. P. Mahendran (**RW 248**) in his reply **EX. R 243** would observe that Fishermen and Merchants Association would take part in the proposed siege agitation (Picketing to Collectorate), that huge number of participants were expected to participate in the picketing either at the Collectorate or the Sterlite Factory. The ready response of the Superintendent of Police, Tr. P. Mahendran

(RW 248) to the FAX message sent to Tr. T.K. Rajendran, I.P.S., **(RW 253)** the DGP on 13.05.2018 would only throw a flood of light on the events that had unfolded in a few days i.e. on 22.05.2018 in which occurrence 13 precious lives had been lost. It is to the knowledge of the Superintendent of Police Tr. P. Mahendran **(RW 248)** and through him the Director General of Police (DGP) that it was most likely that there was to be a huge turnout of protesters as many as one lakh in the estimate of IG Intelligence based on the Intelligence input received by him. A vital intelligence input received by the Superintendent of Police Tr. P. Mahendran **(RW 248)** from none other than the IG, Intelligence which has a great bearing on the developments that had taken place in the interregnum i.e. between 13.05.2018 and 22.05.2018 ought to have been promptly and swiftly shared with the District Collector by the Superintendent of Police which would be consistent with the letter and spirit of clause (i) of PSO 698 which requires the District Collector to make effective arrangements to see that he is fully and continuously kept abreast of the situation as it develops. Obviously and quite palpably the Superintendent of Police would appear to have failed to keep the Collector informed of the FAX message **EX. R 242.**

62. It could be seen from the evidence of IG Intelligence that about three days preceding the occurrence that took place on

22.05.2018 he met Tr. T. K. Rajendran, I.P.S., **(RW 253)** the Director General of Police (DGP) and informed him that there was movement of frontliners of Makkal Adhigara Amaipu in Thoothukudi town, that the DGP for his part readily spoke to Tr. P. Mahendran **(RW 248)** the Superintendent of Police, Thoothukudi, and to Tr. Kapil Kumar C Saratkar, I.P.S., **(RW 246)** the Deputy Inspector General of Police (DIG), Tirunelveli over mobile phone and impressed on them the imperative need for taking necessary steps to defuse the situation. The IG Intelligence would appear to have drawn the attention of DGP on 20.05.2018 that Tr. Hariraghavan **(PW 281)** and Tr. Vanchinathan **(PW 357)** had indulged in intensifying the protest. He would in his evidence advert to the list furnished by SP, Q Branch containing the names of a number of persons and on a close examination of the list, he came to know that those who had been listed therein were likely to incite violence and cause damage to public and private properties. The IG Intelligence had instructed the SP, Special Branch CID to take up this Intelligence input with the Director General of Police (DGP), Additional Director General of Police (ADGP) (Law & Order) and in the evening on the same day the Director General of Police (DGP) had informed the IG Intelligence that the said list of persons had been received by him and sent to Superintendent of Police, Thoothukudi, Tr. P. Mahendran **(RW 248)** for necessary action.

63. The evidence of Tr. T.K. Rajendran, I.P.S., **(RW 253)** the DGP before this Commission deserves to be considered at this juncture. The IG Intelligence has already stated that he furnished a list of persons who were likely to precipitate the protest to be held on 22.05.2018 obviously for the purpose of effecting preventive arrest. Adverting to this aspect, DGP would in his evidence in response to question from the Commission as to why those who instigated the protest were not identified and action taken would explain that in the event of any such preventive arrest the protest would get further intensified and in that view, according to Tr. T.K. Rajendran, I.P.S., **(RW 253)** the DGP no preventive arrest had been effected. It needs to be hardly emphasized that the object of effecting preventive arrest of persons who are likely to indulge in breach of peace is to ensure that any such activity is effectively prevented before ever the damage is done. The very expression "preventive arrest" is self explanatory. Such preventive arrests are invariably effected only to defuse a situation which would otherwise worsen. Such arrest in the ordinary course would also serve as a deterrent for like-minded persons dissuading them from plunging into agitational method paralyzing routine life. The explanation forthcoming from the DGP could hardly be countenanced.

64. The DGP would admit the receipt of the list furnished by the IG Intelligence containing the names of the persons who were likely to indulge in large scale violence on 22.05.2018. Independent of the list furnished by the IG Intelligence supra it would appear that on 21.05.2018, on the instruction of the IG South Zone, the Superintendent of Police, Thoothukudi, Tr. P. Mahendran (**RW 248**) prepared a list of 67 persons presumably containing the names found in the list furnished by the IG Intelligence and instructed the Inspectors Tr. Parthiban (**RW 214**) and Tr. Hariharan (**RW 213**) of North Police Station and SIPCOT Police Station respectively to effect arrest of those persons. But strangely enough, they could arrest only three persons namely Tr. Samsu Pakir, Tr. Gandhimathinathan and Tr. Kamaraj and the rest of them, according to the Superintendent of Police Tr. P. Mahendran absconded. When the frontline agitators like Tr. Vanchinathan, Tr. Hariraghavan, Tr. Surjith, Tr. Mariappan Pandarampatti and Tr. Rajesh could descend on the protest venue on 22.05.2018, how is that they could not be preventively detained on 21.05.2018 itself. In other words when these persons were very much available on 21.05.2018 itself actively involving themselves in the protest plan and picketing the Collectorate on the next day, to say that they were absconding and evaded preventive arrest does not command credence. In the view of this Commission, though a

list of 67 persons was drawn up for the purpose of effecting preventive arrest, the police would only appear to have been lackadaisical in carrying out this exercise which would certainly reflect on the functioning of the police, in a crucial situation that warrants decisive action. It is not as though the protest has been organized overnight. There were sporadic incidents of sit-in protest in various hamlets around Sterlite Factory without Police permission and as a matter of fact the police had been extending bandobust to such demonstrations. So long as there was no breach of peace there was no issue. However, on political parties, Makkal Adhigaram, Makkal Kalai Ilakiya Panpattu Kazhagam, Youth Front owing allegiance to the leftist philosophy joining the fray, there was likelihood of such organizations whipping up passions and intensifying the protest. These aspects are spoken to by none other than the DGP in his evidence the top cop. These gradual but steady developments should have weighed with the power that be to evolve a strategy by which the mischief mongers could be identified and preventively detained. This course of action could have gone a long way in dissuading the protesters from going ahead with their plan of action. Obviously, as is evident from the materials available on record there had not been a guarded approach in stultifying the efforts of the mischief mongers to proceed with the picketing of the Collectorate. This is clearly a lapse on the part of the police

THOOTHUKUDI RIOT

Sipcot P.S Limit

Therku Veerapandiapuram SIPCOT INDUSTRIAL COMPLEX

Therku Veerapandiapuram

VV Tannum Pigments Private Limited

Sterlite

MILAVITTAN

THILAKA SUBSTATION

PARADARAMPATTI

MUTHAMMAL COLONY

VMS NAGAR SOUTH

PEARE CITY

MADATHUR

MURUGESAN NAGAR

D.P.O. COLLECTORATE

KALANKOTTA

PERIYANAYAGAPUR

F.C.I. ROUNDANA

LEIVINGIPURAM

CALDWELL COLONY

MILLERPURAM

ANNANAGAR

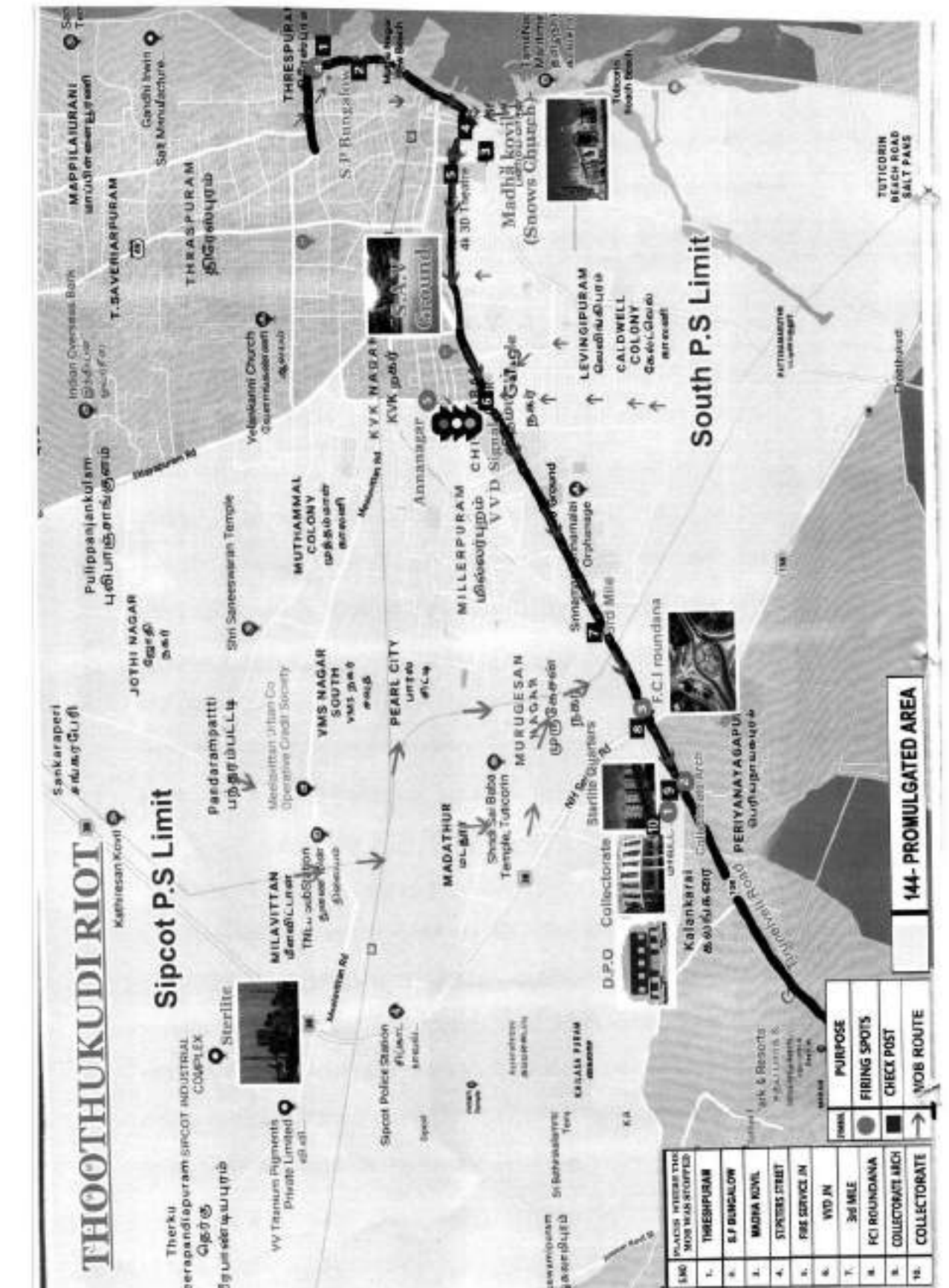
CHITRAKOTTA

THRESPIURAM

MAPPILAIURANI

T. SAVERIARPURAM

THERKUPURAM



144- PROMULGATED AREA

PLACES WHERE THE MOB WAS STOPPED	PURPOSE
1. THRESPIURAM	FIRING SPOTS
2. S.F BUNGALOW	CHECK POST
3. MADHA KOVIL	MOB ROUTE
4. STREET'S STREET	
5. FIRE SERVICE IN	
6. VVD IN	
7. 3rd MILE	
8. FCI ROUNDANA	
9. COLLECTORATE ARCH	
10. COLLECTORATE	

SYMBOL	PURPOSE
●	FIRING SPOTS
■	CHECK POST
→	MOB ROUTE

compounded by a lethargy and indifference on the part of the District Administration.

65. IMPOSITION OF PROHIBITORY ORDER UNDER SEC 144 CR.P.C. - FLAWLESS OR FARSICAL. IS IT PERFUNCTORY.

According to the District Administration, with a view to maintain law and order, an order under section 144 Cr.P.C. was promulgated in Tuticorin SIPCOT Police Station limit and Tuticorin South Police Station limits prohibiting any public meeting or assembly of five or more persons or processions for a period from **10.00 p.m. (22.00 hrs) on 21.05.2018** i.e. just the previous night preceding the shooting incident, **to 8.00 a.m (8.00 hrs) on 23.05.2018**. A perusal of the proceedings of Tr. N. Venkatesh, I.A.S., **(RW 243)** the District Collector in Roc.No.C2/8196/2018 dt. 21.05.2018 would reveal that the order has been signed by the District Collector only on 21.05.2018 without specifying the time of signing the order, presumably at the latest only after 9.00 p.m. on 21.05.2018. The question that requires to be examined here and now is whether the said order has been duly promulgated and brought to the actual knowledge of the general public. The expression "promulgate" contemplates at the first instance, the passing of an order under section 144 Cr.P.C. and the responsibility

of ensuring knowledge of such promulgation well in advance to the public at large. This is to be followed by an effective means of making the public know about the promulgation, say for instance, either by beat of TomTom or by announcing it in public through megaphone. If there is any omission or deficiency in adopting these twin requirements, it would not be in the fitness of things to attribute knowledge of the promulgation of the order to the public at large. There is a spectacle of the authorities promulgating the order under section 144 Cr.P.C. in respect of two police limits and at the same time permitting demonstration against sterlite factory in S.A.V school grounds which is an integral part of the Thoothukudi town and this peculiar and odd approach has obviously resulted in confusion in the minds of general public whether an order under Section 144 Cr.P.C. has been promulgated at all and this state of affairs has been compounded by the total lack of knowledge of the public of the promulgation due to the inordinate delay in passing the Ordinance, despite the orders of the Hon'ble High Court as early as on 18.05.2018 in W.P.(MD) No. 11190/2018 directing the District Collector Tr. N. Venkatesh, I.A.S., **(RW 243)** to invoke the provisions of under section 144 Cr.P.C., should the exigency of the situation warranted and then leaving it to the Collector to act having due regard to the ground realities. To put it pithily the ball was in the Collector's Court. When the promulgation itself is not in

order and is not in consonance with the settled time tested and binding standards and norms, the question of intentionally defying the ordinance would not arise, for after all, no knowledge could be attributed to the people who are charged under different provisions of penal law.

66. It is only in response to the permission granted to assemble in S.A.V school grounds, that thousands of people men, women, youth and children assembled for the purpose of participating in the anti sterlite demonstration. This is quite inexpedient in as much as the permission to demonstrate in S.A.V school grounds has led to the unfortunate consequence of unintentional defiance of prohibitory orders promulgated belatedly in the aforesaid police limits. The most striking feature in the entire scheme of things is that the police have targeted only the youth most of whom were highly qualified, for arrest and detention while others were spared even though all of them participated in the demonstration espousing the cause of the anti sterlite movement. The youth were picked up from the residences in the nocturnal operations of the police (wee hours) and the arrestees who were by and large in the prime of their youth were marshalled against various offences under the Indian Penal Code and other penal enactments. The police both in uniform and without it (mufty) the plain clothes men resorted to arrest and subjected them to physical

violence denying them any opportunity to explain that they had nothing to do with any offence.

67. At this juncture, a pertinent reference may be made to the testimonies of arrested persons examined by this Commission, who in one voice deposed that they had no knowledge about the prohibitory order passed by the Collector. The Commission having regard to the materials gathered in the course of the enquiry thus far, is impelled to opine that the prohibitory order dated 21.05.2018 was not duly promulgated by the authorities concerned and the public could hardly be attributed the knowledge of the order.

68. A pertinent reference may be made to the evidence of Tr. S. Selvanagaratinam, I.P.S., **(RW 242)** Joint Superintendent of Police Thoothukudi, who would say that the District Collector, Thoothukudi Tr. N. Venkatesh, I.A.S., **(RW 243)** imposed the prohibitory order under sec 144 Cr.P.C after 9 p.m on 21.05.2018 and strikingly enough he would say that the factum of imposition of prohibitory order came to his knowledge only the next day early morning at 6.00 a.m i.e. on 22.05.2018 when his camp officer/writer produced a copy of prohibitory order. The version of Tr. Hariharan, **(RW 213)** is at variance in this behalf with that of Tr. S. Selvanagaratinam, I.P.S. Joint Superintendent of Police

(RW 242), when the former would say in his evidence that on 21.05.2018 the prohibitory order under sec 144 Cr.P.C. was imposed by the District Collector, Tr. N. Venkatesh, I.A.S., **(RW 243)** to be in force from 10.00 p.m on 21.05.2018 to 8.00 a.m on 23.05.2018 and the said news was published in the newspaper that evening namely 21.05.2018 itself. This version is factually wrong in as much as there could be absolutely no scope for publication of the imposition of the prohibitory order in the newspapers on the same day when the decision to impose prohibitory order has been made at about 9.00 p.m on 21.05.2018.

69. The very decision to impose prohibitory order in SIPCOT Police limits and in South Police Station limits disregarding the request of Tr. P. Mahendran **(RW 248)**, the Superintendent of Police for imposition of the prohibitory order for the entire Thoothukudi District, exposes itself to the comment that it is an ill-conceived decision taken by Tr. N. Venkatesh, I.A.S., **(RW 243)**, the District Collector oblivious of the ground realities and it only betrays the lack of appreciation of the prevalent situation. It is significant to note that permission had been granted to the protesters for demonstration on 22.05.2018 in S.A.V school grounds, all the while virtually sealing the access to the said S.A.V school grounds by imposing prohibitory order and thereby disabling the protesters to assemble in S.A.V school grounds. There is a

spectacle of grant of permission to assemble in S.A.V school grounds and then imposition of prohibitory order enroute to S.A.V school grounds in total negation of permission granted to assemble in S.A.V school grounds and thus the permission rendered nugatory.

70. The request of the Superintendent of Police is to impose prohibitory order in the entire District. The District Collector disagreed with him and restricted the imposition of prohibitory to two areas namely 1. SIPCOT Police Station 2. South Police Station limits. At this juncture it would be apposite to refer to the version of DGP, Tr. T.K. Rajendran, I.P.S., **(RW 253)** who would opine that had the District Collector on receipt of the orders of the High Court discussed the matter with the Superintendent of Police imposed prohibitory orders sufficiently in advance and given wide publicity to the imposition of the prohibitory order and ensured that the information reached the public at large , had this happened in the manner opined by Tr. T.K. Rajendran, I.P.S., **(RW 253)** the DGP, then the public by and large would not have stirred out and involve themselves in the protest. Admittedly protesters were expected to assemble in S.A.V school grounds from areas namely Meelavittan, Pandrampatti, Madathur, Therku Veerapandiyapuram, Millerpuram, Murugesu Nagar which lie north west of S.A.V school grounds and Threspuram, Panimaya Madha on the South east of S.A.V school

grounds. The DIG Tr. Kapil Kumar C Saratkar I.P.S., **(RW 246)**, would in his evidence advert to this aspect. He would say that the protesters would have to traverse the above two areas covered by the prohibitory order to reach S.A.V school grounds and there is no alternative route for them. The Superintendent of Police, Thoothukudi Tr. P. Mahendran **(RW 248)** would say that the protesters from the areas north west of S.A.V school grounds would not be able to skip the VVD signal to reach S.A.V school grounds wherein the protest was permitted to be held. As a matter of fact that on 22.05.2018 VVD signal was the site of the genesis of the whole episode. Strikingly VVD signal comes within the ambit of the prohibitory order imposed.

71. When there is imposition of prohibitory order in respect of SIPCOT and South Police Station limits and in as much as accessing S.A.V school grounds would entail the necessity of traversing through areas covered by the prohibitory order, it would but be in the fitness of things, sane and sensible as it were to specify the routes through which the protesters could reach the venue of protest permitted by the District Administration namely S.A.V school grounds. The District Administration together with the police ought to have thought in terms of a route by which the protesters could make their way to the protest avenue and specify the routes for reaching the venue without giving room for violating

the prohibitory orders. The evidence of IG Tr. Shailesh Kumar Yadav, I.P.S., **(RW 247)** is that he did not know as to whether any such routes to reach S.A.V school grounds in view of the imposition of the prohibitory order was specified. He would add that he did not recollect as to whether the Superintendent of Police spoke to him in this regard. He would candidly state that it would be incumbent on the Superintendent of Police to specify the routes to reach the venue of protest and let the public to know about the route through due publicity. The DIG Tr. Kapil Kumar C Saratkar, I.P.S., **(RW 246)** for his part would in his evidence say that the protesters could reach the venue from Threspuram through routes which are not covered by the prohibitory orders. He would also add that for the said purpose no specific route was delineated by the police. The Superintendent of Police himself would admit that no route map for the protesters to reach the S.A.V school grounds was drawn. All said and done that the fact remains that the Superintendent of Police had failed in specifying the routes which the protesters could take to reach the venue of protest i.e. the S.A.V school grounds and precisely this omission has led to the consequence of the protesters violating the prohibitory order. It looks as though the authorities imposed the prohibitory order and ironically enough facilitated its violation which ultimately resulted in the otherwise avoidable occurrence. It was the 'cause of causans'.

72.BANDOBUST SCHEME PREPARATORY TO**22.05.2018.**

The Superintendent of Police Tr. P. Mahendran **(RW 248)** had a discussion with Tr. Shallesh Kumar Yadav, I.P.S., **(RW 247)** the IG of South Zone and Tr. Kapil Kumar C Saratkar, I.P.S., **(RW 246)** the DIG, Tirunelveli who were camping in Thoothukudi and on their instructions drew up a bandobust scheme marked as **EX. R 244** series. A cursory glance of bandobust scheme would show that the area had been divided into six (6) sectors and one standby sector. The Superintendent of Police Tr. P. Mahendran **(RW 248)** has stated that the services of police personnel numbering about 1800 including 3 Superintendent of Police, 5 Additional Deputy Superintendent of Police, 12 Deputy Superintendent of Police, besides Inspectors and Sub Inspectors of Police would be required for the purpose of the bandobust in terms of the bandobust scheme **Ex. R 244** series. The Superintendent of Police would deal with the division of the area into six sectors and placing of an officer incharge of each sector. For the sector I within which the Collector's office premises is situate Additional Deputy Superintendent of Police, Tr. Marimuthu **(RW 225)**, for sector II including Sterlite factory premises, Superintendent of Police, Tirunelveli Dr. Arun Sakthi Kumar **(RW 240)** and Deputy Commissioner, Tirunelveli City Tr. Suguna Singh **(RW 234)**, for

SECTORAL ARRANGEMENTS

SECTOR NO.	PLACE
I	Collector Office Zone
II	Sterlite Industry Zone
III	Thoothukudi Town Zone
IV	Outer Zone
V	SAV School Ground, Opp. Old Bus Stand, Thoothukudi.
VI	Miscellaneous

sector III town zone, Joint Superintendent of Police, Thoothukudi Tr. S. Selvanagaratinam, I.P.S., (**RW 242**), for sector IV compressing S.A.V school grounds Tr. Vijaya Basker, Additional Superintendent of Police, for sector V for Thoothukudi rural area Deputy Superintendent of Police, Tr. Dheepu were placed in charge of bandobust. The Superintendent of Police would also explain in his evidence that the bandobust scheme was drawn up as aforesaid in order to meet any situation that might arise as apprehended. The strength required by the Superintendent Police Thoothukudi had been arranged as is evident from **Ex. R 221**. In addition, the Superintendent of Police, Thoothukudi has asked for providing 5 vajra vehicles, 5 police buses, 10 Eicher vehicles, 5 Tata sumo/bolero vehicles, 150 barricades and 5 doors frame metal detectors. But strangely enough no request has been made for providing varun vehicle to disperse the crowd by splashing water. The fact that no requisition was made to provide varun vehicles for tackling the crowd of protesters gets affirmed by the testimony of **RW 232** Tr. Arun Balagopalan through whom **EX. R 82** has been marked and it is evident from para 3 of **EX. R 82** that no requisition was made to provide water jet/varun/water sprinkling vehicles. Even though the request for providing various vehicles as aforesaid, the DIG for reason best known to him limited to providing two vajra vehicles instead of 5 vajra vehicles, 3 police

buses instead of 5 police buses, 6 Eicher vehicles instead of 10 Eicher vehicles, 3 Tata sumo instead of 5 vehicles. The Superintendent of Police who is expected to assess the gravity of the situation properly and to have asked more number of vehicles and the police strength, had himself asked for a lesser number of vehicles and police personnel and even to that extent, the DIG, Tr. Kapil Kumar C Saratkar, I.P.S., **(RW 246)** had not considered it to provide as per the assessment made by Superintendent of Police Thoothukudi. Had more number of vajra vehicles been provided, in all probability, the protesters could have been tackled more effectively by dispersing them by the use of tear gas shells which would have prevented the necessity of use of fire arms. The protesters reached VVD signal and this is the place where they were prevented by the police from moving ahead. There was a tussle between the police and the protesters at VVD signal and the only vajra vehicle which was pressed into service to control a massive crowd of protesters was hardly sufficient and ineffective. Had there been more number of such vajra vehicles, the crowd could have been controlled much more effectively. As a matter of fact the crowd at which tear gas shells were fired dispersed only to reassemble on the other side of the road and proceeded towards the District Collectorate. This would not have happened had there been another vajra vehicle ready for being pressed into service in

such an event the crowd could have been tackled effectively and the crowd of protesters could have melted away and got dissipated. It has come to be known that of the two vajra vehicles one alone was in the four way Palayamkottai Road (Near FCI Roundana) and the other one was stationed in Sterlite factory far away from the FCI Roundana. The said vajra vehicle remained idle and no steps would appear to have been taken to move the said vajra vehicle also to the scene of turbulence even after finding a large crowd of people descending down the third mile road.

73. At this juncture, a reference has to be made to the approach of Additional Director General of Police (ADGP) (L& O) Tr. Vijay Kumar, I.P.S., **(RW 252)** who on receipt of information regarding the state of affairs that prevailed on 19.05.2018, directed sending of the eight TSP companies numbering about 400 police personnel to tackle any eventuality in Thoothukudi on 22.05.2018. The said FAX message had been marked as **EX. R 227** through Tr. Kapil Kumar C Saratkar, I.P.S., **(RW 246)** Deputy Inspector General of Police (DIG), Tirunelveli. This has been done without any request forthcoming from the Superintendent of Police, Thoothukudi, DIG or IG and as an appreciation of the ground realities on the basis of intelligence inputs received by him. Such a course of action on the part of Tr. Vijay Kumar, I.P.S., **(RW 252)**, ADGP deserves commendation. The promptitude with which the

ADGP (Law & Order) conducted himself by rushing towards Thoothukudi by the earliest flight on 22.05.2018 after coming to know of the worsening law and order situation near VVD signal which he viewed through the live telecast in the television and reaching Thoothukudi at 2.50 p.m. on the same day would also deserve to be placed on record, of course it is a different story that by the time he could arrive at Thoothukudi, the violence unleashed was a *faite - accompli*.

74. Here and now the Commission may refer to a FAX message from DGP Tr. T.K. Rajendran, I.P.S., (**RW 253**) marked as **EX. R 261** series whereby the DGP has called upon the Additional Director General of Police (ADGP), (L & O) Tr. Vijay Kumar, I.P.S., (**RW 252**) to send ammunitions from small arms, Avadi to report on 29.05.2018 i.e. long after the incident on 22.05.2018. A cursory glance of the said FAX message would show that non-lethal ammunitions as many as eleven in number – Tear smoke shell (N) 2000, Tear smoke shell (E) 2000, Tear smoke shell soft nose (LR) 300, Tear smoke shell soft nose (SR) 300, Stun shell (N) 1300, Stun shell (E) 1300, Stun grenade 300, Tear smoke grenade (CS) 1200, SPAD 200, Dye marker grenade 500, Dye marker grenade with irritant 500 had been ordered to be sent to Thoothukudi. Though this is post occurrence on 22.05.2018, and as late as on 28.05.2018 still had the Superintendent of Police made a

request for such less lethal and ammunition as has been said by Tr. Vijay Kumar, I.P.S., **(RW 252)** Additional Director General of Police (ADGP), the use of lethal weapons with strong ammunitions could have been averted resulting in no loss of life or far lesser loss of life. Of course the use of lethal weapons could be resorted to by the police as a last resort when the use of less lethal ammunitions proved ineffective. That again depends on the situation that develop on ground and is based on a sane and sensible judgment to be made by the officers in the hierarchy in the field. The use of less lethal ammunitions if resorted to at the initial stage itself, the police would have effectively dispersed the crowd then itself and the need for having recourse to lethal fire arms would not have arisen.

75. THE 108 AMBULANCE SERVICES AND FIRE SERVICES WENT AWRY.

The Superintendent of Police Tr. P. Mahendran **(RW 248)** would write to the Joint Director (JD) of Medical Services, Thoothukudi requesting him to provide seven medical contingency teams with 108 ambulance and necessary medical facilities to be stationed in seven places specified therein. They are (1) Sterlite Industry main gate (2) Collector Office Junction (3) District Collector's office premises (4) Madathur Junction (5) VVD signal (6) FCI Roundana Junction (7) Threspuram on 22.05.2018,

the date on which the protest was scheduled to be held as is evident from **EX.P 779** marked through **PW 590** Dr. Murugavel, Joint Director of Medical Services. This Commission in the course of the enquiry by its letter dated 11.11.2019 called upon the Assistant Director, Public Health and Preventive Medicine Department, Thoothukudi to furnish details as to how many ambulances were allotted to the Collectorate and the surrounding places on 22.05.2018 and the number of persons injured and dead transported in those ambulances on 22.05.2018 and 23.05.2018. The requisite letter is **EX. P 780** marked through **PW 590** Dr. Murugavel. There was no response despite prolonged correspondence with the authorities in the hierarchy and ultimately the Joint Director of Health Services by his letter 26.05.2020 would inform this Commission based on reply furnished by Program Manager 108 Ambulance that 108 Ambulances with registration numbers were deployed from 6.00 a.m on 22.05.2018 at the aforesaid seven places. He would also add that three 108 ambulances bearing different registration numbers were completely damaged by the protesters on 22.05.2018. He would also enclose a copy of the letter dated 16.05.2020 sent by the Program Manager to the Joint Director Health Services, Thoothukudi detailing the deployment of the ambulances at those seven locations and the same forms part of **EX. P 790**. Those details were scrutinized by

the Commission for its correctness and veracity by examining the driver and the Medical Assistant attached to each 108 ambulance and such examination would only reveal the falsity of the claim of the Program co-ordinator, Tr. Ranjith Viswanath who has been examined as **PW 593**. Of the seven places for which request was made, it would appear that even according to **PW 593**, only in four places namely Sterlite Industry main gate, Collector office Junction, Collector office premises, Madathur junction and VVD signal at VOC College (in between the two) 108 ambulances were provided. The version of the Program Manager could hardly be countenanced when examined in the light of the evidence of the drivers and Emergency Medical Technician attached to the ambulances examined as **PW 341** and **PW 346** for 108 ambulance bearing registration number TN 20 G 1980 Collector office junction, **PW 342, 343** for 108 ambulance bearing registration number TN 20 G 1945 Collector office premises **PW 345 and PW 347** for 108 ambulance bearing registration number TN 20 G 1468 Madathur junction and VOC college.

76. PW 342 and PW 346 who are the driver and Emergency Medical Technician respectively of the 108 ambulance bearing Registration No TN 20 G 1980 which ought to have been stationed in Collector's office junction would say that at the relevant time, both were on duty at Authur village, far away from the place



STERLITE COPPER COMPANY WITH VAJRA AND VARUN VEHICLE

of occurrence and on receipt of instruction both of them proceeded to the Collectorate at about 12.40 p.m. **PW 342** and **PW 343** who are the driver and the Emergency Medical Technician respectively for the 108 ambulance bearing Registration No TN 20 G 1945 which ought to have been stationed at Collector's officer premises would say that they were at the relevant time on duty in Pudukottai far away from the Collectorate and on receipt of instruction proceeded to Nallathambi Hospital situate opposite to the Collector office at about 12.20 p.m. **PW 345** and **PW 347** the driver and the Emergency Medical Technician respectively for the ambulance bearing Registration No TN 20 G 1468 which ought to have been stationed at Madathur Junction and VVD signal at VOC College would say that they were at the relevant time on duty in Government Hospital some distance away, certainly not in the place of deployment, on receipt of instruction proceeded to Madathur. The cumulative effect of the evidence of aforesaid witnesses would clinchingly prove that the 108 ambulances were not stationed and made available at the places where the Program Manager Tr. Ranjith Viswanath, (**PW 593**) claimed to have been stationed. The 108 ambulances were not in their respective places allegedly assigned to them and this would only lay bare the dismal failure and lapse on the part of the Program Manager of the 108 ambulance and others responsible for ensuring the due deployment



TAMIL NADU MUSLIM MUNNETRA KAZHAGAM AMBULANCE

of the ambulance and other medical facilities at the aforesaid places as per the request of the Superintendent of Police. On account of this gross omission due to lack of co-ordination between the Program Manager and the Health Service authorities, those who sustained grievous injuries fighting for their lives could not be saved by readily and instantly attending on them and by providing emergency medical aid for which alone these ambulances and other minimal medical facilities in the 108 ambulances are provided. The Joint Director had failed to ensure that the 108 ambulance vehicles were stationed in the places meant for them and this would have ensured that the ambulances could have picked up the grievously injured persons immediately and moved them to the Government Hospital after initial first aid. It may be pointed out that the 108 ambulances could not penetrate into a crowd in turbulence coming from far away places, in other words had they stationed themselves in the places set apart for themselves the services of 108 ambulances and other medical facilities could have been effectively utilized. It is precisely for this reason the Commission is of the view that the services of the 108 ambulance and the allied minimal first aid medical facilities went awry due to lack of co-ordination between the authorities concerned.

77. It is at this juncture, to mention that some good Samaritans came to the rescue of the victims who transported the



TAMIL NADU MUSLIM MUNNETRA KAZHAGAM AMBULANCE

grievously injured and fighting for life ferrying them to the General Hospital by operating several trips of their private ambulance prompted by consideration of humanity. In this behalf, a service Organization namely Tamil Nadu Muslim Munnetra Kazhagam would appear to have volunteered to render invaluable services to those in distress regardless of caste, creed, community or religion - a gesture which is the need of the hour in this secular state.

78. It could be gathered from the evidence that the fateful shooting was at 12.00 noon and lasted till 1.30 p.m inside and outside the Collectorate. There was yet another shooting around 3 p.m in Threspuram. In both the shooting incidents as many as eleven sustained fatal gunshot injuries and one died of crush injuries totalling twelve deads. This is apart from the shooting at Anna Nagar the next day i.e. 23.05.2018 wherein a youngster succumbed to gunshot injuries. **PW 609** Dr. Nivash Maran, a doctor attached to the Government Hospital, Thoothukudi has been examined. He would speak to the factum of receiving at the Government Hospital as many as nine injured persons and all of them were declared "brought dead". The two others with grievous injuries were received by the Government Hospital and died after admission due to gunshot injuries on the same day. Yet another person died on the next i.e 23.05.2018, who succumbed to the injuries thus in all, those who were brought to the Government



NALLATHAMBI AMBULANCE IN GH

Hospital are twelve in number and all the twelve died in the occurrence. What deserves to be highlighted in this context is all those twelve persons were not brought to the Government Hospital by 108 ambulances but by means of private ambulances owned by Tamil Nadu Muslim Munnetra Kazhagam and Nallathambi private hospital. Those dead and gone apart, such of those who survived the grievous injuries and escaped the clutches of death by a close shave were brought, not by 108 ambulances but by these private ambulances. There is also material on record in the form of evidence of the general public that some of the injured were brought to the Government Hospital for treatment by the private individuals in their two wheelers in their desperate efforts to save the lives of the hapless victims of the firing.

79. The Tamil Nadu Muslim Munnetra Kazhagam and the private hospital ambulance deserves special encomium from this Commission for their humane and exemplary services rendered at a time when there was no sign of help forthcoming from any quarters and in the context of police, revenue and the Government machinery as a whole remaining mute spectators. Needless to emphasize that but for the voluntary and spontaneous help and service flowing from these Tamil Nadu Muslim Munnetra Kazhagam, Nallathambi Hospital and some of the private individuals in time, the state of affairs would have been far worse resulting in many



NALLATHAMBI AMBULANCE

more casualties. The entire atmosphere was surcharged, the panic stricken people were fleeing for their lives, there was total breakdown of orderliness, the Government machinery became paralyzed and there was pell-mell and pandemonium. It is in this atmosphere, the Tamil Nadu Muslim Munnetra Kazhagam and an individual by name Tr. P. Senthil kumar (**PW 422**), a member of the public risking danger to their life or limb ventured daringly into the rescue operations with indomitable will and spirit and unawed by the gravity of the situation they have stood as firm as a rock against all these odds. The Tamil Nadu Muslim Munnetra Kazhagam whose reputation is to rush relief to those in distress as they had done during COVID 19 pandemic disposing of the dead bodies of the people belonging to other faith according to the faith of the community to which dead belonged has rendered laudable services as stated Supra. No less valuable is the services as stated supra. No less valuable is the services of Tr. P. Senthil Kumar examined as **PW 422** who dauntlessly braved all adversities and transported the dead and the injured in the ambulance belonging to the Nallathambi hospital to the Government Hospital – an instance of humanity and altruism at their best. The Commission places on record its profound appreciation and encomium to the said service Organization, Nallathambi hospital and the individual Tr. P. Senthil



FIRE SERVICE VEHICLE IN COLLECTORATE

Kumar (**PW 422**) for the society at large as a message worthy of emulation.

80. INEPT HANDLING OF THE FIRE SERVICE VEHICLES.

The Superintendent of Police, Tr. Mahendran (**RW 248**) would by his letter dated 20.05.2018 marked as **EX. R 245** write to the Divisional Fire Officer requesting him to cause the stationing of the Fire Service vehicles from 6.00 a.m on 22.05.2018 until the bandobust is over at the seven places specified therein, precisely in the places wherever 108 ambulances required to be positioned. They are (1) Sterlite Industry main gate (2) Collector Office Junction (3) District Collector's office premises (4) Madathur Junction (5) VVD signal (6) FCI Roundana Junction (7) Threspuram. Though seven places have been specified for this purpose, only in three places namely 1) Sterlite Industry Main gate 2) District Collectorate Office premises and 3) Madathur Junction, fire service vehicles besides a quick response vehicle known as mist at Threspuram were available, according to Tr. M. Balasubramanian (**PW 591**), District Fire Officer, Thoothukudi. Several two wheelers and four wheelers were set on fire in the Collector's office premises and in the Sterlite staff quarters which is in the vicinity of the Collectorate. The Fire Service vehicle bearing Registration No TN 66

G 0436 was originally positioned at the District Collector's office premises as required in **EX. R 245**. However the said vehicle had been moved to the District Police Office which is some distance away. While so, the two wheelers and the four wheelers in the Collector's Office premises were set ablaze followed by the setting ablaze of vehicles in the nearby Sterlite staff quarters. It remains unexplained as to why the Fire Service vehicle which should have been available in District Collector's Office premises was moved to the District Police Officer (DPO) except that Tr. S. Balasubramanian (**PW 546**) who was then available in the said Fire Service vehicle along with the driver and Firemen would say in his evidence that on being instructed by the police he left to DPO with the Fire Service vehicle. Had the said Fire Service vehicle adhered to the place of deployment, the fire that broke out in the Collector's office premises and the Sterlite staff quarters would have been extinguished before ever large scale damage occurred. Soon after the first shooting between 11.57 and 12.15 the vehicles were set ablaze by some of the protesters. Thereafter, the Fire Service vehicle could reach the Sterlite staff quarters only around 12.45 p.m by which time more than half of the total damage had come about and it is only on account of the delay on the part of Fire Service vehicle in reaching the Sterlite staff quarters caused by not positioning the vehicle as originally required. Admittedly in the Fire

Service vehicle there was a Fire Station Officer and other firemen and even after changing the positioning of the vehicle to the DPO, they should have been alert enough to know what was happening around them and swing into action, but it is disappointing that these Fire Service personnel were not on their guard but were indifferent to the happenings in a turbulent situation. It required a police officer to rush to them to tell them that their services are required urgently and it is only thereafter they proceed to the Sterlite staff quarters to quench the fire. This would only show the callousness on the part of the Fire Service personnel and a total lack of co-ordination between the police and Fire Service personnel. **PW 531, PW 532, PW 533, PW 534 and PW 545** speak in this behalf. It may be pointed out that in VVD signal and FCI Roundana Junction there was no Fire Service vehicle available even though specific request has been made to provide Fire Service vehicle in those two places by the Superintendent of Police having regard to the fact that it is only through these places the crowd of protesters would pass through. There was an incident of setting fire to a few two wheelers in FCI Roundana even before the shooting took place. Had there been Fire Service vehicle available there at, the damage due to fire could have been certainly minimized and the vehicles were fully burnt down only on account of the non-availability of Fire Service vehicle in that place. There was no Fire Service vehicle in

the Collector's office Junction or in the Collector's office premises when vehicles were set on fire by the protesters. Equally there was no Fire Service vehicle as already pointed out in VVD signal and FCI Roundana which are geographically proximate to the Collectorate. It is for this reason the Fire Service vehicle which was stationed in Madathur a place comparatively far away from the Collectorate had to be moved to the Collectorate for extinguishing the fire as spoken to by **PW 535, PW 536, PW 537, PW 538, PW 539 and PW 540**. This state of affairs resulted in delay in Fire Service vehicle reaching the Collectorate which eventually led to complete burning down of the vehicles, for movement of vehicles in a situation where there was all round chaos & confusion would have consumed unduly long time. Thus it is apparent that the failure to provide Fire Service vehicle in VVD signal & FCI Roundana contributed to the worsening of the situation. The reasoning set out in respect of the Fire Service vehicle stationed at Madathur would hold good in respect of Fire Service vehicle stationed in Sterlite Factory main gate since there was enormous delay in the said vehicle reaching the Collectorate particularly when the instruction to move the said vehicle to the Collectorate was given only at 1.15pm. The evidence of **PW 527, PW 528, PW 541, PW 542 and PW 544** is on the point.

81. There was a bandobust scheme drawn by the Superintendent of Police, Thoothukudi on the instructions of the DIG, Tirunelveli Tr. Kapil Kumar C Saratkar, I.P.S., **(RW 246)** & IG South Zone Tr. Shailesh Kumar Yadav, I.P.S., **(RW 247)** vide **EX. R 244**. There was requisition for deployment of 108 ambulance with medical contingency team and Fire Services at 7 places as specified in **EX. R 244**. The Superintendent of Police and the DIG go round the entire Thoothukudi town one after another on the morning of 22.05.2018 only to ensure whether the bandobust arrangements are in order. It is quite baffling to note how it did not come to their notice that the 108 ambulance with Emergency Medical teams and the Fire Service vehicles were not available in their respective places. It has now turned out to be that the arrangements that were on paper were not translated to realities and this would only betray the perfunctory nature of performing their responsibilities. As a matter of fact those two higher ranking officials ought to have interacted with all the officials concerned including the District Collector in order to make sure that the arrangements in terms of bandobust, Medical Emergency Services, fire fighting vehicles, deployment of 108 ambulances and ever so many allied and incidental preparations were all at place. It would appear to be the consequence flowing from lack of co-ordination

amongst these public authorities who had the last opportunity of preventing an occurrence of such a gravity.

82. Integral part of the bandobust scheme was arrangement of videographing of the incident and for this purpose the police would appear to have engaged their own police personnel, two policemen for each sector which includes in particular, the Collectorate office portico, Main arch, Sterlite main gate, VVD signal, FCI Roundana, S.A.V school grounds and our Lady of Snow Church. Though as many as 28 police personnel were involved in the exercise of videographing, most of them abandoned. The responsibility abruptly entrusted to them and few of them either videographed for a while or left the place without completing the work entrusted to them presumably fearing harm to themselves.

83. A Special Control Room had been set up in the District Police Office (DPO) equipped with facilities namely VHF, Computers with e-mail, printers, FAX etc. Tmt. Vanitha Rani Inspector of Police **(RW 227)** was placed incharge of the Special Control Room. She was incharge of the Special Control Room from 9.00 a.m on 21.05.2018 till 9.00 p.m. on 22.05.2018 and in the meantime at 7.00p.m, Tmt. Vanitha Rani **(RW 227)** was relieved and in her place Inspector Tr. Sahul Hameed **(RW 250)** was placed incharge

i.e. after the occurrence on 22.05.2018. But strangely enough Tmt. Vanitha Rani (**RW 227**) continued even after Tr.Sahul Hameed (**RW 250**) took charge at 7.00 p.m on 22.05.2018 till 5.00 a.m on the next day i.e. 23.05.2018. Tmt. Vanitha Rani (**RW 227**) as officer incharge could make entries in the General Diary of this Special Control Room only till 7.00 p.m on 22.05.2018. But she continue to maintain the General Diary in her own hand even after getting relieved. This would only give an impression, inevitable as it were, that the said Tmt. Vanitha Rani had chosen to remain in the Special Control Room only to maintain the General Diary in a manner which would suit and be consistent with the version of the police of the occurrence especially in the context of the fact that Tmt. Vanitha Rani is none other than the wife of Tr. Hariharan (**RW 213**), Inspector of Police, SIPCOT who had a crucial role to play in the entire episode of unfortunate firing resulting in loss of valuable lives. Say for instance, Tmt. Vanitha Rani (**RW 227**) claims that she received information regarding imposition of prohibitory order under Sec 144 Cr.P.C. at about 10 a.m on 22.05.2018. But admittedly there is no entry in **EX. R 80** the General Diary of the Special Control Room about the said information which would only show that the General Diary would not reflect the true position and it is capable of being manipulated to be in tune with the police version.

84. An intelligence team has been constituted to collect intelligence and to report to the Sector Officers, but no such Police Officer would appear to have been given that responsibility on the date of occurrence i.e. on 22.05.2018. This has led to failure in intelligence collection of events that took place on 22.05.2018, independent of the State Intelligence which was meant for a larger purpose, presumably the lack of intelligence input as regards the gathering of the protesters in large numbers, their course of action and the activities indulged in by them as also the mob psychology as they prevailed on 22.05.2018 rendered the police action ineffective. The Bomb Detection & Disposal Squad (BDDS) team intended to anti-Sabotage check would appear to have been formed in the Bandobust scheme for the areas specified therein and the details of the names of the officer have also been specified. There is no material available on record to show that such Bomb Detection & Disposal Squad (BDDS) team was in fact formed, not to speak of any preventive measure they undertook.

**85. THE RIGMORALE OF DESIGNATING EXECUTIVE
MAGISTRATES AND THE TOTAL BUNGLING IN THE FIELD.**

At the outset, the legal position in the appointment of Special Executive Magistrates has to be examined with reference to the relevant provisions of Code of Criminal Procedure 1973



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(hereinafter referred to as Cr.P.C.) Sec 20 of Cr.P.C. deals with the Executive Magistrates. Sec 20 (4) enables the State Government to place an Executive Magistrate incharge of a Sub division. Sub-Sec (4A) of Sec 20 Cr.P.C. provides for delegation of the power of the State Government under Sub - Sec (4) to the District Magistrate who is the Collector. Sec 21 Cr.P.C. empowers the State Government to appoint Special Executive Magistrates for particular areas or for the performance of particular functions and conferment of powers on such Special Executive Magistrates. A conjoint reading of Sec 20 (4A) Cr.P.C. and Sec 21 of the Cr.P.C. would make it abundantly clear that the power to appoint Special Executive Magistrates having been delegated to the District Magistrate that is the Collector, such power is exercisable only by him for appointing Special Executive Magistrates for the purpose of performance of particular functions on being conferred with such powers as are conferrable under the Code of Criminal Procedure on Special Executive Magistrates. This would only presuppose that the power in this behalf is to be exercised exclusively by the District Magistrates/District Collector and is incapable of being delegated to any other authority. In other words, the District Collector himself being a delegate cannot further delegate on the principle of "Delegatus non potest delegare". This principle is expressed in the



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Latin maxim. This is a celebrated principle in the Constitutional and Administrative law jurisprudence.

86. Now we can turn to the facts of the case at hand. A reference would be quite appropriate to the evidence of **RW 244** Tr. M.S Prasanth I.A.S Sub-Collector, Thoothukudi. He would admit that he is only an Sub Divisional Magistrate and not even an Additional District Magistrate. He would equally admit that he would not have the powers to appoint Special Executive Magistrates, however he would claim that over the years the practice of Sub Divisional Magistrates appointing Special Executive Magistrates is in vogue. He would claim that on the directions of the District Collector he has made the appointment of the Special Executive Magistrates. The District Collector/District Magistrate Tr. N. Venkatesh, I.A.S., (**RW 243**) would putforth a different version. According to him as soon as the prohibitory order under Sec 144 Cr.P.C. was imposed at about 8.30 p.m on 22.05.2018, the Sub-Collector, Thoothukudi and the Revenue Divisional Officer (RDO), Kovilpatti in their respective jurisdictions appointed Special Executive Magistrates to his knowledge. He would add that he did not know which Special Executive Magistrates was appointed for which area and the copy of the order of such appointment of Special Executive Magistrates was sent to him later. If the version of the Sub-Collector is juxtaposed with that of the Collector, the



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inevitable conclusion to be drawn is that the Collector virtually abdicated his responsibility of making appointment of Special Executive Magistrates himself and acquiesced the conduct of Sub-Collector appointing the Special Executive Magistrates thereby allowing the Sub-Collector to exercise a power that was not statutorily available to him. Thus there is manifestly and glaringly a gross omission on the part of District Collector in exercising the power delegated to him by the State Government and the Sub-Collector arrogating to himself a power which was not available to him. The order appointing the Special Executive Magistrates passed by the Sub-Collector is supinely silent as to the source of power available to him for making such appointment. The Collector admittedly was physically present at the relevant time, of course he ought to be physically present but also keep close track of the developments that were taking place in a turbulent situation that was then prevailing which snowballed into a violence of this magnitude, and it defies analysis as to why he did not choose to exercise the powers statutorily available to him especially where there was every reason for him warranting the exercise of power.

87. A reference may be made at this juncture to the proceedings of Sub Divisional Magistrates/Sub-Collector dated 21.05.2018 by which the Sub-Collector has named the officers who



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will serve as Special Executive Magistrates and their places to be incharge, in order to maintain law & order and prevent untoward incidents. It has been directed therein that such Special Executive Magistrates should work in tandem with the police in their respective places and keep the higher officials informed of the developments taking place over phone vide proceedings of the Sub-Collector marked **EX. R 49** through **RW 182** Tr. Sekar, the Deputy Tahsildar. The Sub - Collector by proceedings supra has appointed nine officers as Special Executive Magistrates. The Revenue Divisional Officer (RDO), Kovilpatti for his part by proceedings dated 21.05.2018 which forms part **EX. R 49** has appointed one officer as Special Executive Magistrate. It would appear these officers appointed as Special Executive Magistrates have been serving in different positions like Elections, Social security scheme, civil supplies in the Revenue Department other than in the Headquarters, Thoothukudi. Had the officers in headquarters been preferred to those abovesaid holding several other positions in different capacities not directly connected with the areas in which they were asked to take charge, the contribution of those officers in maintaining law & order of that area would have been much more efficacious and the co-ordination between the police and the Special Executive Magistrates would have been far more effective. Significantly, there was a scenario of the Special



PANNIMAYA MADHA TEMPLE

Executive Magistrates not being able to co-ordinate with the police officers since the Special Executive Magistrates themselves could not identify the police officers who were in command and it looked as though they were strangers to each other. It could be known from the evidence of Police Officers Tr. S. Selvanagaratinam, I.P.S., Joint Superintendent of Police (JSP) **(RW 242)**, Tr. Meenakshinathan Inspector of Police **(RW 208)**, Tr. Thirumalai Inspector of Police **(RW 197)** and Tr. Marimuthu Additional Superintendent of Police (ADSP) **(RW 225)** who were all the officers posted in different sectors in the bandobust scheme but they were not in a position to know or be told as to who is the Special Executive Magistrates incharge of that area. In other words, the identity of the Special Executive Magistrates were readily not known to the police officers and this state of affairs by and large accounted for either lack of co-ordination or ineffective co-ordination. The lack of co-ordination had also been compounded by the fact that not even the mobile numbers of the Special Executive Magistrates were furnished to the police officers and vice versa and virtually the police officers felt helpless in availing the services of the Special Executive Magistrates on the spot. The lack of co-ordination as aforesaid is borne out by the evidence of Tr. Meenakshinathan **(RW 208)**, Inspector of Police and Tr. Gopal, the Special Executive Magistrates **RW 185** with which,



84 SBI NORTH

STATE BANK ROAD

this Commission will deal later in the course of this report at the appropriate place.

88. In the proceedings **EX. R 49**, as many as 9 Revenue Officials have been posted as Special Executive Magistrates and their respective areas have also been specified. For our purpose, discussion in regard to the Special Executive Magistrates, mentioned below would be relevant;

- a) Tr. Rajkumar Thangaseelan, Special Tahsildar (Social Security Scheme, Thoothukudi) to be incharge of District Collector's office premises, junction of Collectorate office, District Employment Exchange office junction and Sorisapuram,
- b) Tr. Chandran (Divisional Excise Officer, Thoothukudi) to be incharge of S.A.V School grounds near old bus stand,
- c) Tr. Kannan (Zonal Deputy Tahsildar, Thoothukudi) to be incharge of Pollution Control Board office and its junction, Railway EB office, FCI godown junction, Madathur junction and Madathur,
- d) Tr. Sekar (Deputy Tahsildar, Election, Thoothukudi) to be incharge of Fathima Nagar, Lions town, New Street, Sorisapuram, Panimaya Madha Church and Threspuram junction.



FCI ROUNDANA

As to the shooting that took place in the Collectorate, it has got to be ascertained as to which Special Executive Magistrate issued firing orders to the police. In view of last minute appointment of the Special Executive Magistrates to different areas, there was absolutely no communication between the Special Executive Magistrates and the Police and there had been no time to discuss with the police officers as to what type of action to be taken to tackle the situation at the appropriate places.

89. Tr. Rajkumar Thangaseelan, Special Executive Magistrate meant for District Collector's office premises, Collectorate office junction, District Employment Exchange office junction and Sorispuram was available in the Collectorate. While so, why did he not issue the firing order and as to why Tr. Sekar **(RW 182)** Special Executive Magistrate meant for Panimaya Madha Church and Threspuram junction should issue the firing order. This aspect requires to be examined with reference to the materials available on record. It may be pointed out straightaway that the said Tr. Rajkumar Thangaseelan, since deceased, in response to a query from this Commission has sent a reply on 27.02.2020, wherein he would inform the Commission that he returned to Thoothukudi from Chennai with his family on the morning of 22.05.2018, that he received a message from the office of Superintendent of Police through his mobile as to the order of the



COLLECTORATE MAIN ARCH

Sub-Collector dated 21.05.2018 designating him and eight (8) others as Special Executive Magistrates in places set apart for them in the order itself, that he enquired about the order with the Headquarters Tahsildar, Tmt. Sivagama Sundari (**RW 181**), that he reached the District Collector's office premises at about 9.30 a.m, that thereafter he was keeping the Sub-Collector, District Revenue Officer and the Collector informed of the developments. The factum of the availability of Tr. Rajkumar Thangaseelan in the Collectorate would get further reinforced by the evidence of **RW 189** Tr. Maria Selva Prabu who is the Personal Clerk of the Collector and **RW 191** Tr. Muralidharan who is also the Personal Clerk of the Collector. Both of them in their evidence would say that, they had spoken to the said Tr. Rajkumar Thangaseelan over mobile phone several times and gathered information upto the time of opening firing in the Collectorate. This part of evidence would also draw strength from the phone call details of Tr. Rajkumar Thangaseelan obtained by the Commission. The version of Tr. Sekar (**RW 182**), Special Executive Magistrate is that he left the area set apart for him and reached the Collectorate only to find that Tr. Rajkumar Thangaseelan was not available there at and assumed the jurisdiction to issue necessary orders to the Inspector of Police, Tr. Thirumalai who alone was known to him though officials far higher in the hierarchy were present. His evidence if

tested in the backdrop of the version of Tr. Rajkumar Thangaseelan contained in letter supra, it would be apparent that the version of Tr. Sekar (**RW 182**) would not command credence. The said Tr. Sekar (**RW 182**) even according to him had not taken instructions of any of his superior officers to move to the Collectorate and there was absolutely no warrant for deserting the places meant for him and proceed to the Collectorate. A pertinent reference may be made to the evidence of Tmt. Sivagama Sundari (**RW 181**), Headquarters Tahsildar, Thoothukudi who would advert to in her evidence to the appointment of nine (9) Special Executive Magistrates (**EX. R 49**) and would assert that **EX. R 49** order was not modified either in writing or orally either by her or by the Sub-Collector. She would also add that Tr. Sekar (**RW 182**) was set apart for Threspuram area and no order modifying the same was passed. However, for opening fire in Threspuram, it was only Tr. Sekar (**RW 182**) who ought to have issued the requisite orders, but it was Tr. Kannan (**RW 187**) who was to be available in Madathur and Pollution Control Board, had moved to Threspuram without any orders modifying the area of charge and strangely enough even Tr. Kannan (**RW 187**) did not file any report in regard to the firing in Threspuram.

90. Tr. Sekar (**RW 182**) whose area of charge is Panimaya Madha church and Threspuram junction and not the

District Collectorate filed initially an affidavit on 31.07.2018 before the Commission to the effect that Tr. Rajkumar Thangaseelan was not available at the Collectorate, that he apprised the higher ups about the abnormal situation obtaining there through his mobile phone, that on the orders of higher ups he assumed charge of the Collectorate and worked in tandem with the police. The said Tr. Sekar (**RW 182**) filed another affidavit before this Commission on 09.08.2018 with a request for substituting the first affidavit with a latter one. Though the said request looked innocuous there is some mischief inbuilt in it, in that in the latter affidavit, he introduces a subtle change in the averment at page 3 by omitting the words "உத்தரவுபடி" thereby meaning that it was not on the orders of the superior officers that he assumed charge as Special Executive Magistrate of the Collectorate premises but on his own volition maintaining all the while that Tr. Rajkumar Thangaseelan was not available in the Collectorate premises.

91. The witness Tr. Sekar (**RW 182**) was shown the relevant CCTV and video footages at the time of his examination before the Commission. To a question put to him as to whether he had seen the police vehicles, the vajra vehicle coming from east to west in the NH road outside the Collectorate as shown in the visuals, he would reply that he is not there and did not know where he was then. To another question put to him as to whether

Tr. Rajkumar Thangaseelan was seen in the visual, he would admit that he was. To yet another question as to whether he ordered firing of tear gas shells he would answer in the negative. The call details of Tr. Sekar (**RW 182**) was obtained by the Commission and even a cursory glance would reveal that he had used the mobile phone during the relevant hours and it contain the details of the tower location. Those tower locations relate to the places far away from the District Collectorate, probablising the fact that he was not physically present at the Collectorate at the relevant time. The bits and pieces of evidence of different witnesses referred to supra would make certain things clear i.e. (i) that the said Tr. Rajkumar Thangaseelan was very much available in the Collectorate at the relevant time in his capacity as Special Executive Magistrate as per order **Ex. R 49**, (ii) that Tr. Sekar, (**RW 182**) was not present in the Collectorate (iii) that the version putforth by Tr. Sekar, (**RW 182**) that Tr. Rajkumar Thangaseelan was not available in the Collectorate, and he moved to the Collectorate and remained there till the opening of the fire in the Collectorate, and that it was on his orders as Special Executive Magistrate the firearm was used initially for the dispersal of the crowd and thereafter led to the opening of fire with lethal weapons resulting in casualties is not to be countenanced.

92. The DGP Tr. T.K Rajendran, I.P.S., (**RW 253**) had filed a status report before the Hon'ble High Court in W.P.No.12966 of 2018 wherein while advertng to the opening of fire in the Collectorate resulting in the death of six persons, he would not refer to any order passed by a Special Executive Magistrate in regard to the shooting that took place in the Collectorate. In sharp contrast, the DGP while dealing with opening of firing in Threspuram on the same day i.e. 22.05.2018 around 3.00 p.m he would refer to the Special Executive Magistrate Tr. Kannan ordering the use of power presumably firearm to disperse the crowd in which one woman died. The omission to refer to the name of the Special Executive Magistrate Tr. Sekar (**RW 182**) as regards the earlier instance namely firing in the Collectorate not to be treated as casual or inconsequential but has significance.

93. The inevitable inference is that Tr. Rajkumar Thangaseelan did not come forward to oblige the authorities to putforth a case that the Special Executive Magistrate ordered the opening of fire and dictated by the exigencies of the situation, the authorities would appear to have hit upon the strategy of choosing an obliging Special Executive Magistrate, in this case Tr. Sekar (**RW 182**), so as to enable them to give an impression that the firing was resorted to only after compliance with the provisions of the relevant Police Standing Orders. That is the reason why

Tr. Sekar puts forth a version that he drifted from the place of charge to the Collectorate sans orders from his higher authorities. He is inducted in the scene only to impart legality to an otherwise an illegal act.

94. Next coming to the Special Executive Magistrate Tr. Kannan (**RW 187**) he was to be incharge of Pollution Control Board office and its junction, Railway EB office, FCI godown junction, Madathur and Madathur junction as per **EX. R 49**. He knew that Tr. Sekar Special Executive Magistrate was placed incharge of Threspuram who as already dealt with move to the Collectorate without any instructions from his higher ups. A shooting takes place in Threspuram between 3 p.m. and 3.45 p.m on 22.05.2018. The shooting is to be preceded by an order of the Special Executive Magistrate. In the normal course, Tr. Sekar should have issued the requisite orders. But in the case at hand orders are said to have been issued by Tr. Kannan (**RW 187**). If the facts of the case are analyzed closely an inference is required to be drawn that Tr. Kannan (**RW 187**) has been planted in the place of Tr. Sekar at Threspuram in order to suit the case of the police that the necessary orders of shooting has been passed by the Special Executive Magistrate. In this regard questions were put to Tr. Kannan in the course of his examination by the Commission to which he would respond that he moved to Threspuram from his

place of charge only on being so instructed by Tmt. Sivagama Sundari, **(RW 181)** Headquarter Tahsildar. This version is discredited by the evidence of Tmt. Sivagama Sundari herself who would in no unambiguous terms say that **EX. R 49** arrangement has not been in any manner altered or modified either by her or by the Sub-Collector. The irresistible conclusion is that there was opening of fire in Threspuram between 3 p.m and 3.45 p.m on 22.05.2018 without any orders of the Special Executive Magistrate and the shooting was resorted to by the police on their own. The call details of the mobile phone number of Tr. Kannan **(RW 187)** would reveal that between 3.00 p.m and 3.45 p.m he had contacted several persons over phone including his family members and interestingly enough in no entry tower location has been shown as Threspuram. This would only belie the claim of Tr. Kannan **(RW 187)** that he was in Threspuram at or about the time of opening of fire between 3.00 p.m and 3.45 p.m.

95. Another Special Executive Magistrate Thiru Chandran **(RW 184)**, Special Executive Magistrate was incharge of S.A.V school grounds from 21.05.2018 until further orders as per **EX. R 49** and thereafter under orders of Tr. M.S. Prasanth, I.A.S., **(RW 244)** the Sub-Collector as per **EX. R 60** placing him incharge of the same S.A.V school grounds from 23.05.2018 until further orders. He would in his evidence say that he moved to Anna Nagar

from S.A.V school grounds on being asked by Tr. P. Mahendran **(RW 248)** the Superintendent of Police, Thoothukudi. But the Superintendent of Police, Tr. P. Mahendran examined as **RW 248** would not say in his evidence that on his instructions, Tr. Chandran **(RW 184)** moved to Anna Nagar from S.A.V school grounds. According to the Superintendent of Police, when he reached Anna Nagar on receipt of information that some people were found gathering in Anna Nagar to indulge in violence, he reached there and found Tr. Chandran **(RW 184)** arriving there at. He would add that Tr. Chandran **(RW 184)** also reached Anna Nagar on receipt of information. If closely looked at, it could be discerned that Tr. Chandran **(RW 184)** was not at all available at that time in Anna Nagar and he has been inducted into the scene only to put the records seemingly straight that is to give the impression that the shooting was preceded by the issuance of an order by the Special Executive Magistrate.

96. Thus there is a spectacle of the Special Executive Magistrates in spite of **EX. R 49** order not adhering to the directions contained therein and **EX. R 49** had been honoured more in the breach than in observance and the Special Executive Magistrates designated in **EX. R 49** have been marshalled and planted wherever necessary for their tailormade version that the firing was preceded by compliance with the requirement of Police Standing


Orders- Issuance of the necessary orders by the Special Executive Magistrates before ever shooting is resorted to.

97. The other sectors, in **EX. R 49** covering Sterlite factory, Muthiapuram, Pandarampatti, Meelavittan, Silverpuram, Devar colony, A. Kumareddiapuram, Theerkuveerapandiyapuram and its junction were all incident – free warranting no discussion. As regards the only remaining sector namely VVD signal, Tr. Issaki Raj (**RW 192**) Special Executive Magistrate was physically present and he did not emulate the unworthy example of other Special Executive Magistrates who abdicated their responsibility whimsically and arbitrarily.

98. It has been found that the Revenue Department has appointed District Tahsildars and lower ranks as Executive Magistrates who have to play crucial roles during the Riot Control operations, without sufficient time to get acquainted with the local area, assess threats and undertakes survey. This has also resulted in failure of Special Executive Magistrates to give proper orders for dispersal and to monitor police action and consequently the failure to save lives.

99. It is also found that the Special Executive Magistrates who filed FIRs claiming that they ordered firing without

understanding the procedures to be compiled with for issuing of such orders. Therefore, this Commission of the view that only officials of the rank of Tahsildar and above regularly promoted should be posted as Special Executive Magistrates and such officers should receive a minimum of 12 weeks training in the legal and operational aspects of the role of Executive Magistrate/Special Executive Magistrate.


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