

A STUDY ON THE LEGAL STATUS OF STERLITE COPPER PLANT IN TUTICORIN WITH REFERENCE TO ITS ENVIRONMENTAL IMPACT

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ABSTRACT

This paper critically analyzes the legal status of the Sterlite Copper Plant project in Tuticorin District of Tamil Nadu. The deaths of 13 people following the Anti-Sterlite demonstrations in 2018 has revealed how when environmental issues are not addressed by the state, eventually lead to grave human rights violations of the people. The Tuticorin killings also revealed that state backed industries can go to the extent of using brute force by the police to justify their legality. The Supreme Court of India has a well-established jurisprudence of environmental law which works as a guiding compass in such cases. The aim of this research is to examine the trace out and examine the legal status of the project and its effect on the Environment. This paper uses the Doctrinal and descriptive method to evaluate the problems and solutions in this area of research. This paper also suggests some methods on how the judiciary can deal with such highly sensitive environmental cases.

Keywords: Environment, Police Brutality, Development, Tuticorin, Sterlite.

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INTRODUCTION

The Sterlite Copper Plant is a major issue in Tamil Nadu due to the impact on the environment and its impact on the right to life of the people living there. India is a signatory to many of the International Conventions and Agreements which are committed to protecting the environment including the Stockholm Declaration, 1972; United Nation Environment Program, 1972; Rio Declaration, 1992; and the Kyoto Protocol, 1997. The Constitution of India¹ has been interpreted to recognize the right to a pollution free environment as a fundamental right under right to life². In spite of being party to such important international initiatives and having strong constitutional provisions, there are many cases of serious violation of environmental law due to the activities of private corporations. The private industries are able to bring development

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¹ The Constitution of India, 1950

² Subhash Kumar v. State of Bihar, AIR 1991 SC 420.

through increased employment and contribution to the economy, but are highly questionable when it comes to environmental impact. Many of the industries are able to get their government clearances by faking the Environmental Impact Assessment data and are in violation of the Environmental Protection Act, 1986. The Sterlite Copper Plant in Tamil Nadu is one such industry of concern which was highlighted by the media in 2018. The aim of this research is to examine the trace out and examine the legal status of the project and its effect on the Environment.

STERLITE COPPER PLANT:

The Sterlite Copper Plant in Tuticorin is an industry which is a subsidiary of Vedanta Resources, a natural resources mining conglomerate. It started its copper smelting plant in 1997, which was inaugurated by the then Chief Minister of Tamil Nadu, J. Jayalalitha by laying the foundation stone in 1994³. Before coming to Tamil Nadu, it was rejected by the governments of Gujarat, Goa and Maharashtra. Ever since it has been in serious violations of environmental norms including pollution of the ground water and air pollution. In 2010, the Madras High Court ordered the closure of the copper plant⁴ due to various litigations which established that the industry is flouting the environmental norms leading to catastrophic health problems in the neighboring areas. This order was later set aside on appeal by the Supreme Court, which slapped a fine of Rs. 100 crores but allowed the industry to continue its operations⁵. In 2018, the residents of neighboring villages started protesting against the Copper plant after its announcement to double its production capacity from 4 lakh metric ton to 8 lakh metric ton. These protests revealed the ugly face of the state when 13 people were shot down by the state police in May 2018 to stop the 100 day long peaceful protest demonstration by the people⁶. Within a week, due to the mass media coverage of the incident, the Tamil Nadu Government ordered the closure of the Sterlite Copper Plant permanently⁷. In 2020, the Madras

³ Parul Shrivastava, *Research Paper on Copper Smelting Plant on Environment: Vedanta Copper Smelting Plant in Tuticorin*, International Journal of Development Research. Vol. 09, Issue, 09, pp. 29767-29770, September, 2019

⁴ National Trust for Clean Environment v. Union of India and Ors (2010), W. P. Nos. 15502 & 15503 of 1996, Available at:

<http://www.indiaenvironmentportal.org.in/files/Copper%20Smelting%20Plant%20Sterlite%20Madras%20High%20Court%20Order%202010.pdf>

⁵ Sterlite Industries (India) Ltd. and Ors. vs. Union of India (UOI) and Ors., (2013) 4 SCC 575

⁶ Lokpria Vasudevan, *Death toll in Tuticorin firing rises to 13, Tamil Nadu cuts power to Sterlite plant*, India Today, May 24, 2018. Available at: <https://www.indiatoday.in/india/story/death-toll-in-tuticorin-firing-rises-to-13-tamil-nadu-cuts-power-to-sterlite-plant-1240151-2018-05-24>

⁷ TK Rohit, *Sterlite Copper to be permanently closed, says Tamil Nadu government*, The Hindu, May 28, 2018 Available at: <https://www.thehindu.com/news/national/tamil-nadu/sterlite-copper-to-be-permanently-closed-says-tamil-nadu-government/article61831761.ece>

High Court upheld the order of the government⁸. The court laid to rest the argument about economic contribution of the Copper plant by emphasizing that when the economy is pitted against the environment, the latter would reign supreme. An appeal is now pending in the Supreme Court to set aside the order of the Madras High Court.

IMPACT ON ENVIRONMENT

The Industries like Sterlite Copper Plant have very serious and grave consequences to the environment. They lead to contamination of water, air and the entire ecosystem around them. The natural habitat including the natural flora and fauna gets changed significantly. The animals around them are also exposed to such environmental degradation. This leads to the extinction of some of the species which are specific to that region. The fishes and other water creatures also get affected due to the effluents released by these industries. The animals around the polluted regions also consume the contaminated water and plants. The natural foods of that region begin to change and as a result the people in the region undergo a significant change in their nutritious habits which affects them hereditarily. The pollution due to the industries lead to the ground water getting contaminated and also the atmosphere. The harmful gases released lead to breathing problems which eventually affect the lungs. People living around the areas of industrial pollution are more prone to long term diseases like asthma and cancer. The polluted groundwater when consumed leads to other chronic diseases which can take years to recover from. The environmental impact is not just restricted to the people specific to the pollution region. It affects the neighboring regions and contributes greatly to the global climate change. The extreme variations in the regular patterns of climatic change are a direct result of environmental pollution.

SUGGESTIONS

The primary solution to addressing the impact of industrial projects on the environment is public awareness. If people are more aware and educated about the consequences of exploiting the environment, they will organically question every administrative action of the government. This will eventually make environmental protection a top priority when it comes to public policy. The solutions proposed through this research includes the following:

⁸ Vedanta Limited v. State of Tamil Nadu and Ors, 2020, W.P.No.5756 of 2019. Available at: https://www.livelaw.in/pdf_upload/pdf_upload-380108.pdf

1. Right to pollution free environment must be made into a fundamental right through constitutional protection under Part III of the Constitution of India.
2. Violations of Environmental laws must be considered as an Environmental Crime and the individuals including government servants and industrial officers must be held criminally liable for exploiting and polluting the environment.
3. Public policies like the draft EIA 2020 must be scrapped and legislations must be introduced which will ensure stricter compliance.
4. Stronger mechanisms must be introduced for providing compensation to the victims of these environmental crimes and their families through legislation and judicial pronouncements.
5. Sustainable development must be implemented as a public policy as per the Sustainable Development Goals of the UN⁹.

CONCLUSION

Environmental protection is not necessarily an obstacle to development. Developmental projects and industries with proper adherence to the procedures for Environmental impact assessment must be encouraged. Sustainable development must be the top priority of the government as it will improve the economy and also the employment in the country. The draft Environmental Impact Assessment 2020 notification proposes post-facto approval, reduced time-frame for public consultation to 20 days, relaxation on submission of compliance report to 1 year and power of government to bypass the Environmental Impact Assessment for certain 'strategic' projects¹⁰. The Tuticorin mass killings revealed the ugly face of such industries and the consequences of unchecked nexus between the state and these corporate industries. The solutions proposed can be implemented so that the country grows positively towards development while simultaneously protecting the environment. The major solutions include criminalizing the breach of environment laws, making right to environment a fundamental right, increasing public awareness and public participation in EIA, higher compensation to victims, strict adherence to environment laws and implementation of sustainable development projects.

⁹ Sustainable Development Goals, United Nations Development Programme, 2015.

¹⁰ Prithvi P, *Analysis of EIA 2020*, International Journal of Law Management & Humanities, 2021, Vol. 4 Iss 3; 963. Available at: <https://www.ijlmh.com/paper/analysis-of-eia-2020/>