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The Madurai Bench of Madras High Court issued notice to the State Government and the National Human Rights Commission (NHRC) today in a plea for disclosure of NHRC's "undisclosed" 2018 investigation report into police firing following the Sterlite Protests (May 28, 2018) in Thoothukudi, Tamil Nadu.

Mr. Henri Tiphagne, Executive Director of People's Watch, appearing party-in-person, has challenged the closure order of NHRC dated 25.10.2018, seeking directions to reopen the case in NHRC in the matter of killing of unarmed protestors.

The Bench of Chief Justice of Madras High Court **Sanjib Banerjee and Justice TS Sivagnanam** directed the NHRC to forward a copy of the spot investigation report to the H.C. in a sealed cover if the matter is sensitive and to file a counter to the petition by Mr. Tiphagne.

The Chief Justice strongly observed that it is alarming that the State, through its police personnel, fired on unarmed protestors, and despite the passage of three years, no action was taken against them.

"It is not good in the civilized society and governed by the constitutional schemes, merely throwing money is not right to the family of victims and closes the case," the Bench added.

In the interim order passed by the Court, it observed that it is necessary that this fact comes to light and be made public. The matter was posted at the principal seat at Madras on August 09, 2021, given the seriousness of the matter.

What is the background of the matter?

The petition by Mr. Tiphagne states that the Sterlite Copper plant has been protested against since its establishment in October 1994. However, despite the pressure from the local communities, the factory continued its operations with complete disregard for the environment and the people's health. There have been several complaints against the plant for violating the Government's environmental regulations and harming the environment.

The petition further states that in January 2018, Sterlite initiated steps to double the capacity of the existing copper smelting plant, which was protested by the local community, fearing further deterioration of the environment and their health that such an expansion posed. In response to this, the people started protesting against the company in the small village of Kumarrediyapuram in the Thoothukudi district.

In February 2018, the protests were moved to Thoothukudi, where they gained momentum. In March 2018, the company administration shut down the plant to equip the plant for the planned expansion and continued its operations beyond March 2018 without a license. On May 22, 2018, the protestors planned to march to the Collectorate demanding permanent shutting down of the Sterlite Copper Smelter Plant. The police openly fired at the protestors without due warning, indiscriminately killing 16 protesters, including three women, and severely injured several others.

Closure of Suo Motu Case by the NHRC as "*adequate compensation*" has been paid:

The petition states that the NHRC took Suo Motu cognizance of the incident based on the reports in the Times of India and registered with Case No. 907/22/41/2018 with the initial observations that the victims' right to life had been grossly violated and that the police had fired on unarmed protestors without following the standard operating procedure. Despite the seriousness of the case, the NHRC merely issued notices to the Government of Tamil Nadu seeking a response in two weeks.

Disappointed by the superficial action of the NHRC, Shri Rajarajan, Advocate and Vice- President, National Union of Backward Classes, New Delhi, filed a writ petition (W.P. (C) No. 5779/18) before the Hon'ble High Court of Delhi, which ordered the NHRC to pass suitable orders to conduct an independent investigation under Section

14 of the Human Rights (Protection) Act 1993, led by the Director-General of Investigation.

After the investigation, the NHRC closed the matter without sharing any of the reports it had received from its investigation wing or the Government with the other complainants in the cases mentioned with the following observations:

"The Commission has considered the report. Since adequate compensation has been paid to the victims and appropriate steps, have been taken by the State Government to bring law and order situation under control, and the Judicial Commission is already looking into the angle of use of force/police excesses, if any, no further intervention in the matter is required. The report is taken on record, and the case stands closed."

The petition by Mr. Tiphagne urges that the grounds for the NHRC closing the suo moto case was ill-advised, and the case must be reopened. It further adds that the compensation referred to is an ex gratia payment made by the Government of Tamil Nadu, which is within the domain of the Govt. to provide for the victims. The petition also highlights that the closure order by the NHRC makes no reference to the report of the investigation division prepared after the Supreme Court mandated spot investigation.

Title: Henri Tiphange Vs The National Human Rights Commission

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