

# Sterlite Copper Case (2018)

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## ABSTRACT:

Sterlite Copper, a subsidiary of Sterlite Industries, a company owned by Vedanta Limited was founded on 8<sup>th</sup> September, 1975 located in the Thoothukudi district of Tamil Nadu. Vedanta Limited is also known as the parent organization of Sterlite Copper, which was the largest copper smelter plant in India from 1998-2018. This plant of Sterlite Copper included a refinery, a phosphoric acid plant and a sulphuric acid plant with an employment force of up to 1500 employees. It is a metal and mining industry, with a worldwide network being a public company. This plant has been in controversy until 2018 which was then shutdown due to several protests taking place against the plant. This Thoothukudi plant has been opposed mainly by the local residents of the districts for reasons such as environmental pollution causing severe health problems. This is the reason the plant has gone through several closures on grounds of violating environmental norms.

**KEYWORDS:** Sterlite Copper, plant, Thoothukudi, environment

## I. FACTS:

This case dates back to the year 1994 when the Sterlite Copper was established in the state of Tamil Nadu with a No Objection Certificate. Post a year, in 1995, the construction of the smelting plant began even though the locals opposed it because of environmental and health concerns since it was a residential area. In the year 1997, after the Government had issued Sterlite Copper the licence to continue with their operations, the villagers began to fall ill because of the pollutants released from the plant<sup>1</sup>. The reports of the National Environmental Engineering Research Institute stated that the Sterlite Plant violated the Government's rule that it should not have been located in a place which is within 25 km of an ecologically sensitive area. Situation worsened in 1999 when locals alleged a gas leak

from the plant and many were hospitalised, also complaining about toxic water waste release. After a decade, finally in the year 2010, the Madras High Court ordered the shutdown of the plant on the grounds of heavy violation of law, but the Supreme Court stays this order and allows the functioning of the plant. 2013 was again when there was a leak reported resulting in the Tamil Nadu Government ordering the shut-down of the plant. The Sterlite Copper Plant was fined up to Rs. 100 crores by the Supreme Court for violating environmental norms but was asked to continue their operations after three months of its shut-down.

The Sterlite Copper Vedanta had planned to expand its operation and open up a second plant to double the capacity of production to 800,000 tonnes per annum. In the year 2018, the issue was again raised by the people of Kumarareddiapuram who protested against the expansion of the plant and even the Tamil Nadu Pollution Control Board refused to renewing the Consent to Operate for violating the law. On May 22, 2018, Thoothukudi district was shaken by massive protests with over 200,000 protestors culminating 100 days of agitation against the heavy pollution levels caused by the plant as well as its expansion<sup>2</sup>. Section 144 was imposed by the local administration but still the protests resulted in damage of public property. Slowly, the number of protesters increased and the situation became more violent demanding for the permanent closure or shut-down of the plant. This also led to police-firing resulting in the death of 12 innocent people. Later, the Tamil Nadu Pollution Control Board suspended the supply of electricity and water to the plant. May 28<sup>th</sup>, 2018, the then Chief Minister of Tamil Nadu, Edappadi K Palaniswamy ordered for the permanent closure of the plant because of which the Sterlite Copper approached the National Green Tribunal to appeal against the order by the Tamil Nadu Government. Hence, favouring the plant, the National Green Tribunal allowed for the reopening of the plant. But, the Tamil Nadu Government, dissatisfied with

the order of the NGT, appealed to the Supreme Court of India. The Supreme Court questioning the jurisdiction of the NGT, asked the Vedanta Company to appeal to the Madras High Court instead.

Finally, on August 18, 2020, the Madras High Court dismissed the plea by the Vedanta to reopen the Sterlite Copper Plant.

#### **LEGAL AND ECONOMIC ISSUES:**

1. Whether the Sterlite Copper Plant violated environmental norms?
2. Whether the closure of the plant was required?
3. Whether the rights of the employees working in the plant were breached?
4. Whether the setting up of this industry was valid and legal?
5. Whether the closure of the plant led to benefits outweighing the costs?

#### **II. ANALYSIS**

1. The Sterlite Copper Plant is a metal mining industry which includes a refinery, a phosphoric acid plant and a sulphuric acid plant. This plant has always thought of increasing its production capacity but the first and foremost issue was that the plant was constructed in a residential area causing problems to the locals staying around the plant. The normal functioning of the plant wasn't a major issue, but several leaks which were reported caused severe health problems where people lost their lives. The report of the National Environmental Engineering Research Institute stated that the Sterlite Plant violated the Government's rule that it should not have been located in a place which is within 25 km of an ecologically sensitive area. This shows that the plant violated Government rules. Leakage of substances and release of waste in water bodies are proof as to violation of environmental norms. The disastrous leaks in 1997, 2013 and 2018 led to the shut-down of the plant several times. The Tamil Nadu Pollution Control Board also refused to renew their licence on the ground of heavy pollution caused by the plant. This violates the fundamental right provided under Article 21 of the Indian

Constitution which states that every individual has a right to a safe and healthy environment. Even the release of slag dump from the plant can be seen as causing inconvenience to the environment. Their geographic location was

inappropriate since it is not right for an industry to be set up in a residential area. Various environmental concerns prevailed because of the operations of the plant including lack of air-monitoring, release of slag dump in water bodies, release of heavy emissions, negligence on part of the company which reported several leaks, inadequate greenbelt, no proper authorisation for handling hazardous waste, etc.

2. The final verdict ordered the plant to shut-down permanently and stop all its operations. The closure of the plant has had its own set of consequences be it economic, human rights, environmental or legal consequences. On one hand, due to heavy pollution caused by the plant leading to environmental harm, it needed to be closed down. But on the other hand, the shutdown will lead to so many people losing their job, their economic right of employment being violated. The strong belief of the company on our country to become an independent copper manufacturer contributes to the economy and development of the country. Therefore, the closure of the plant had its own consequences but the judgement has prioritised the health of the people over the economic advantages of the plant.
3. Article 16 of the Indian Constitution guarantees equal opportunity to all citizens in matters related to employment in the public sector. Article 16 (1) states that there shall be equal opportunity for the citizens in the matter of employment or appointment to any office under the state. Considering this, it can be said that the rights of 3500 employees was violated. Compensation for these workers was to be provided, not just because they lost their jobs, but also to the injuries caused while working at the plant and whenever there were reports of leakage from the plant. The workers had also alleged that their dues have not been paid since months. 3500 employees were directly affected along with an additional 30,000 people who worked for it indirectly. Since the shut-down was needed, the workers who lost their jobs at least deserved a compensation and relief for all the losses incurred by them including the injuries. There were refusals to invest in this company due to the fact that Sterlite Copper was violating environmental norms, human rights and workers safety. But there were also some workers who lost their jobs and were given the relief. Some workers believed that it was more important for the closure of the plant

than losing their jobs as it took so many lives because of the consequences of the activities of the plant. deep down they had the guilt of working in a company which causes severe health concerns which is now leading to several deaths. Hence, unemployment cannot be prioritised over the life of people.

4. The Sterlite Copper was set up in Thoothukudi and has been in controversy since its establishment. Every industry operating in India has to have a consenting licence for its establishment. Through the timeline of this case, Sterlite Copper violated a lot of norms. In India, appropriate licences under the Air (Prevention and Control of) Pollution Act, 1981 and Water (Prevention and Control of) Act, 1974 are required in order to set up an industry. But the plant violated the provisions of these legislations, that is consent to establish and consent to operate on the grounds of which they were refused the renewal of their licence to operate. They let the operations continue without consent violating all the norms under several legislations. Not just this, being a 'red category' hazardous industry, which can be set up only in 'special hazardous use zone' and cannot be located in a 'general industrial use zone' or an 'agricultural use zone'. Even the expansion plan of the plant was to be revoked. The permission for expansion could not have been granted because expansion meant increase in production, which in turn meant increase in environmental concerns and the plant has been a repeated non-compliant that has failed to comply with various necessary conditions needed for its establishment.
5. The shutdown of the plant is a huge economic loss as it the expansion of the same could have helped our country to become an independent copper manufacturer. The strong workforce comprising of 3500 employees would not have had to go through an employment crisis affecting the income of their households since most of them who lost their jobs were sole breadwinners of the family. Unemployment and development are the two major costs that have to be incurred due to the closure of the Sterlite Copper Plant. the benefits of the closure of the plant include prevention of environmental hazards, safe and a healthy environment, loss of lives could be prevented, and there would be no more violations of existing legislations. If measured, the physical costs will be more than the intangible benefits.

The final judgement ordered the closure of the plant. Throughout the case, there were several orders to shut and reopen the plant which led to instability among the workers and the production process as well. The verdict is efficient for a long term as it has saved many lives but the plant can be set up in a special hazardous use zone to continue to reap economic benefits such as employment to those 3500 people or even more and also help us to become an independent copper manufacturer contributing to the development of our country. This case has prolonged for almost 25 years now. If the situation was looked into carefully for the very first time and an efficient decision had been taken at that time only, then there wouldn't have been such grave consequences. The permanent closure is not an efficient solution for long term as the economic benefits from the plant go for a toss. If the losses incurred would have been invested in setting up the plant in an appropriate geographic location, then its costs wouldn't have been more than the benefits. Therefore, the verdict of shutting down was not efficient for long term and is a temporary solution.

### III. CONCLUSION

The Sterlite Copper Plant has had its own economic and legal issues. Several orders issued against the operation of this plant; the final verdict led to the shutdown of the plant. the health and lives of people were prioritised over other economic benefits that the plant was providing for. Issues like jurisdiction, operation of the plant, unemployment, deaths of people, several appeals, etc. were witnessed throughout the 25-year long pendency of the case. Such cases require more attention and strict implementation of legislations and laws for efficient outcomes. Therefore, the final verdict has its own advantages and disadvantages.

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