

## **Climate Emergency podcast: A rare environmental victory in India**

### **EPISODE 1: Thoothukudi's long fight against Vedanta**

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In a big victory for Tamil Nadu government and the people who had protested the Sterlite factory, the Madras High Court has upheld the TN government's decision to shut down Sterlite Copper, a unit of Vedanta Limited.

On August 18 this year, the residents of the seaside town of Thoothukudi facing the Bay of Bengal in Tamil Nadu burst firecrackers, shared sweets with strangers, and danced on the streets celebrating a quarter century fight against a global mining conglomerates copper smelter, which had been operating in a densely populated part of the city. But the celebrations came after bloody years of struggle and police brutality.

In 2018, 100 days of protest was held by the people of Tuticorin demanding that Sterlite be shut. On the 100<sup>th</sup> day, police officials opened fire on a mob and in the shooting, 13 people were killed. Following this, there was widespread outrage. And finally, the TN government ordered Sterlite plant's closure.

The people of Thoothukudi have suffered countless health issues due to mercury, fluoride, and sulphur dioxide poisoning – pollutants, which are by-products of copper smelting. Sterlite Copper – a subsidiary of the UK-based Vedanta Resources Limited operates a 400,000-tonne annual production capacity smelter in Thoothukudi. According to the company, its operations are 'among the largest custom copper smelters in India', and that it supplies well over a third of the country's refined copper needs. There have been numerous instances of groundwater, air and soil contamination linked to the copper plant. Residents of Thoothukudi have complained of unexplained birth deformities, miscarriages, cancer, breathing difficulties, fluorosis, and skin rashes. The company has maintained that these have not been caused by its operations. Instead, it points to many other factories in its vicinity, like a urea plant and a rare earth minerals facility.

### **Hi, I am Kunal Shankar, your host for this series on the Climate Emergency podcast: A rare environmental victory in India**

Nityanand Jayaraman: Well, I think that the story begins around mid-1990s. Post-liberalisation India and Vedanta was an up and coming company. Anil Agarwal as a scrap merchant turned you know, mining aspirant decided to set up a copper smelter, a small copper smelter, and he imported a copper smelter.

That's Nityanand Jayaraman, a Chennai-based environmental activist associated with the fight against Sterlite Copper since 2003.

Nityanand Jayaraman: He imported a copper smelter and it was used to set it up first in Ratnagiri in Maharashtra. The Government invited him, provided him with land and allowed him to set up. But they were ignoring protests by the people. Construction began. People's

protests intensified because the copper smelter was supposed to come up in the midst of an extremely important horticultural zone. Very famous for the Alphonso mangoes and a zone that is very well known for fisheries and the copper smelters are known to be polluting, and copper smelters that are operated in poorly regulated environments like India, in general have even more disastrous consequences.

A government-appointed committee warned of severe ecological damage, with detrimental consequences to the local economy, if a copper plant were to come up in Ratnagiri.

Nityanand Jayaraman: Between the protests and this report that gave Vedanta a rap-sheet, the district collector ordered that work should be stopped.

The company then looked elsewhere in India. State governments across India in the initial years following liberalisation, were eager to shore up Foreign Direct Investments. Jayalalithaa, then a young and not so confident Chief Minister in her first term had won a succession battle within her party – the Anna Dravida Munnetra Kazhagam (AIADMK). She wanted to prove her mettle. She invited Anil Agarwal to set up his copper smelter in the state. Thoothukudi became a natural choice for the company as it mirrored Ratnagiri in Maharashtra – proximity to a port and an already existing industrial infrastructure, which could handle copper ore that would be shipped from Vedanta's mines in Zambia in Africa, and Tasmania in Australia.

Fatima Babu: Initially it was seen to be a fishing community issue. Because we were given to understand, not only given to understand, it did happen that the effluents, initially were supposed to have gone into the sea.

This was in 1994. Sterlite had proposed an 8-kilometre long wastewater pipeline from its plant in the western tip of the city to the shore in the east. So when we heard about this, people got really furious, because already Tuticorin has been branded as an industrial town.

Fatima Babu is respondent number nine in the case filed by Sterlite in the Madras High Court seeking reopening of its plant following its shuttering by the Tamil Nadu government in late May 2018. She has been one of the longest campaigners against the copper factory in her hometown.

Fatima Babu: I am Fatima Babu, formerly professor of English language and literature in St. Mary's college in Tuticorin, and I have been actively involved in social justice causes and environment protection activism for nearly three decades.

I was born and brought up here. Yes, the seaside town has a beauty of its own, I was fortunate to have been born here and to have lived all my life here.

Thoothukudi, is supposed to be the capital of fishing of the two adjacent districts – Thoothukudi and Tirunelveli districts. The beauty of the Thoothukudi seashore is not in any way similar to the beauty of a Goan beach or Marina beach. It's not like that. But Thoothukudi beach is constantly buzzing with livelihood activities. Full of life. Full of vigour.

So, to have another big company dumping all its effluents, all its waste into the seashore, would have meant a great deal of damage to the waters, to the marine life.

Enraged fishermen set sail in boats, mechanised vessels, all that they owned, to stop the very first consignment of copper ore headed to Thoothukudi from Australia.

Fatima Babu: The fishermen, they set out into the sea. They fought a battle Royale and they drove them off from here. And the vessels had to go to Cochin.

**VO:** Cochin, or Kochi is in the state of Kerala and faces the Arabian Sea.

Fatima Babu: Berth there, get there, unload their cargo, and had to transport it to Tuticorin on road. So that was the first big protest against Sterlite, and was by the fishing community people, because it was felt to be a fishermen's issue. At that time the realisation that it was much more than that, much more dangerous than that was not there.

**VO:** The fishing community's resistance to Vedanta has been steadfast right from those early days.

Fatima Babu: Now the whole concept has changed. People have understood. Every single household has some impact of Sterlite on one of its members. And now they know what it means to allow Sterlite to continue here.

Nityanand Jayaraman: Copper in its ore form is not present as copper. It is present as copper sulphides, and it is present along with other trace metals and sometimes metals found in substantial quantities like iron.

Nityanand explains how the most significant by-product in copper smelting - Sulphur Dioxide, gets produced, and the harm that it can cause to human health and the ecology.

Nityanand Jayaraman: The copper sulphide has to be heated in a smelter, and there it reacts with oxygen and you have sulphur dioxide that is released almost, you know, for every ton of copper is a hell of a lot of sulphur dioxide that is released and that sulphur dioxide will have to be either captured and converted into something else and a substantial amount of it will still be released into the environment. There is of course the hazard of sulphur dioxide spills or gas leaks, which can completely devastate vegetation and human health, and well-being.

The company says it produces over 1.2 million metric tons of Sulphuric Acid every year capturing Sulphur Dioxide, but despite this, episodic gas leaks did take place. This has been confirmed by government authorities and accepted by the courts as well.

Nityanand Jayaraman: So, there are two different kinds you have, the routine sulphur dioxide pollution, which is what people complain about. And then you have these episodic you know, these events which are, you know, significant releases, large releases of sulphur dioxide uncontrolled. And those take the form of gas leaks that end up poisoning very large numbers of people at the same time. And such episodic releases are usually short in duration, but extremely intense. It is the routine pollution that really got the people very concerned because there was not a single night that they could spend outside. So these are people who are used to sleeping on their terrace, because it's very warm, and so people like to sleep out in the open and sleeping out in the open was no longer an option. Keeping the windows open was no longer an option because the toxic fumes would invade your home.

And sulphur dioxide is a kind of a chemical that suffocates you and it enters into your lungs and into anything that has mucus. So your nose, your eyes, your lungs, your throat, these things are acted upon by sulphur dioxide and if it gets intense, then it starts eating into the tissue of the lung and generating water and you end up drowning in your own fluids.

Sterlite Copper obtained permission from the Tamil Nadu Pollution Control Board in a record two weeks to set up its plant in Thoothukudi in 1994. It used a legal loophole to do this. It sought land from the State Industrial Promotion Corporation of Tamil Nadu, or SIPCOT – a government authority. It circumvented the Town and Country Planning Authority, which is a Statutory Body set up by an act of the state's Legislature in 1971. This body designates urban lands into various categories, such as residential, commercial, industrial and "special industries", which means hazardous industries. This involves an extensive consultative process with locals.

R. Vaigai: The High Court held that as far as designating areas as residential, commercial or industrial or special industries is concerned, under the Town and Country Planning Act, it is the local town planners, including the district collector, who are the concerned and designated authorities who have got the power to designate a land for a particular use. And that designation of land for a particular use doesn't happen through some kind of an executive order based on the whim of any particular individual officer.

Senior Counsel R. Vaigai appeared for Fatima Babu in the Madras High Court in 2019.

R. Vaigai: It has to go through a detailed democratic process where the town planning authority prepares a draft notification. That draft notification, drawing the map of the area with the various designation of the land use - the people are put on notice about that. Several months of notice is given and then those people's comments are invited. The local people are entitled to have their objections heard by the town planners before they arrive at the land use demarcation. So, it's a detailed democratic process and only after considering their objections the concerned town planners, planning authority can issue the final notification of the local map, showing the designation of each area. Now, once that notification has happened under the statutory process, given in the Town and Country Planning Act, SIPCOT or no other government agency can modify that.

The court has held that once under the Town and Country Planning Act, there is this notification which says it is not a special industrial zone. Then SIPCOT could not have assigned this land to Vedanta to operate its Sterlite plant.

In June 2018, less than two months after the state government was forced to shut down the plant, the company's then CEO P. Ramnath refuted all charges of circumventing rules in a news interview.

(CNBCTV18 News Audio clip) Two very important concerns continue to exist though. The first of course is, the fact that, and this was pointed out by the Madurai Bench of the Madras High Court as well, that you got the NGT clearance, and the environmental clearance from the Ministry of Environment rather, without having a public hearing. Your defence was that considering it was located in an already assigned industrial complex, a public hearing

wouldn't be necessary. But what's important to point out is also that that industrial complex did not exist. It was a proposed expansion for your proposed plant as well.

**(P. Ramnath, CEO Sterlite Copper, 2018):** I don't agree with that. The entire industrial complex of SIPCOT was set up prior to 2006. And there is an EIA notification, which said very clearly.

But phase two of course was applied for in 2015.

**P. Ramnath:** The EIA notification, the EIA notification very clearly said that any industrial complex, which was set up prior to 2006, and any industry which was set up in such an industrial complex, need not get a public hearing.

R. Vaigai: In fact the court has made certain remarks about how Vedanta was able to get away with getting various orders and at a very easy base. That is, it said it applied and got permission to locate its industry in this place in a matter of 14 days while its past conduct was that in Maharashtra where it tried to locate an industry similar, same industry in Ratnagiri, people, nearly 20,000 people marched and they broke down whatever construction had already happened.

Vedanta's first noticeable gas leak was in 1997, 13 years since the world's worst industrial disaster– the Bhopal Gas Tragedy in 1984. Union Carbide's Methyl Isocyanate had killed tens of thousands, due to a similar case of industrial negligence. The trauma of that tragedy had hardly been addressed, before Indians heard of the news of 160 women feeling breathless due to a toxic gas in Thoothukudi, reminiscent of what happened in 1984. Several of them were hospitalised.

**In the next episode, I will chronicle how this heightened sense of awareness of the fatal consequences of industrial disasters, and a maturing nationwide environmental movement supported by a wide spectrum of civil society took on Vedanta on the streets and in the courts.**