

**Report of the Jury on the Public Hearing
on
Koodankulam and State Suppression of Democratic
Rights**

Public Hearing Committee

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EXECUTIVE SUMMARY

This report is based on the testimonies of persons who participated in the public hearing on Koodankulam and State Suppression of Democratic Rights, held on 14 May, 2012 in Lawrence Sundaram Hall, Loyola College, Chennai. The public hearing was organised by the Chennai Solidarity Group for Koodankulam Struggle, a coalition of individuals and organisations formed to lend solidarity to the anti-nuclear struggle in Koodankulam.

FINDINGS OF THE HEARING

The restriction ON FREEDOM of speech

1. People living around the nuclear plant have strong reservations to its presence and have voiced their opposition to it. However ever since the plant was commissioned, any activities critical of the plant were countered by strong reaction as if even talking about the subject was seditious and against the State. This resulted in the suppression of the people's right to freedom of speech.

The restriction on freedom of movement

2. The area around where the plant is situated was under siege with the imposition of section 144 CrPC at the time of the hearing, and in March. In both instances, the Government placed complete and severe restrictions on the freedom of movement of persons living in and around the area.

The denial of information

3. The protestors are seeking genuine information that would address their concerns about safety, and there are genuine reasons for such safety concerns. Instead of addressing their concerns, and furnishing them information to which they are entitled under the Right to Information Act, the state police machinery is being used to harass them.

Registration of criminal cases and arrests

4. The systematic registration of various cases against the protestors charging them with sedition, waging war against the Government of India, promoting enmity between different groups, and other provisions of the Indian Penal Code, seems to support the allegation of the persons who appeared before the committee that cases have been foisted on them in view of their active participation against the nuclear plant. The jury found that many arrests were made very arbitrarily. The mechanical and arbitrary method of arrests indicate that the issue was not that the persons concerned had committed an offence but was

more to prevent any kind of legitimate protest or difference of opinion against the nuclear power plant.

Denial of other rights

5. Plans by the police and revenue departments to impound passports and nullify ration cards of the protestors because they were wanting to return their voters ID as an act of protest was clearly illegal and in violation of the protestors' right to food. By preventing effective transport from reaching the villages and making children walk long distances, the children's right to education was deeply affected. The restriction on movement had an impact on the right to health of the residents in the surrounding villages as they could not get adequate and timely medical help. There was a severe impact on livelihood and the right to carry on trade and business as fishermen were unable to go the sea and small shopkeepers who depended on transport to get their goods from Tirunelveli were severely hit as they were unable to purchase goods and eke out their living. There has been culpable inaction on the part of the police in not proceeding with the investigation on the complaint given by Mrs. Meera Udayakumar relating to the attack on her school.

RECOMMENDATIONS

- The right to speech is a constitutionally guaranteed right and the persons who are opposed to the plant are well within their right to speak about it. However by filing cases of sedition, waging war against the Government of India, and promoting disaffection between groups of persons, the people are being unnecessarily harassed by the misuse of criminal law, and their constitutional rights are being violated. The jury recommends that all cases against persons under these provisions be withdrawn as they are only exercising their legitimate right to protest and there was nothing to indicate that they were committing such serious offences.
- An order under Section 144 CrPC can be made only in an emergency. In rural areas, such imposition for a large stretch of time can cause tremendous hardship. In this instance, it has resulted in the denial of people's right to life and livelihood. It seems to be pushing people towards despair and penury and does not augur well for their well being. The jury recommends that the order be revoked immediately and positive and pro-active steps be taken by the Government to bring normalcy in the area.
- Persons who are protesting cannot be branded as anti- national and unpatriotic, and peaceful protests cannot be equated to sedition or waging war against the state. The deliberate targeting of the protestors in criminal cases must stop and all cases filed under Waging War against the Government of India, Sedition, Promoting Enmity etc must

be withdrawn immediately.

- All public transport services must be immediately restored.
- All persons including Satish Kumar and Mugilan, who have been arbitrarily arrested for exercising their right to protest must be released immediately.
- The Government of India must release information on safety, site evaluation and other such information that will not compromise strategic interests. In this connection the order of the Central Information Commission directing the Government to release such information should be complied with immediately.
- The inter governmental liability agreement between Russia and the Government of India must be made public in so far as it does not violate strategic interests.
- The talks with PMANE should be resumed and, a fair committee acceptable to villagers should be set up to address the concerns raised by the villagers.
- The right to gather, assemble and protest are all part of the fundamental right to speech and the right of the protestors to protest and dissent should be respected.
- Action must be taken against miscreants who attacked the school run by Meera Udayakumar and her complaint investigated.
- The media must be more responsible and play a role in giving alternate viewpoints. They should not create a fear psychosis among protestors or brand persons as Maoists simply because they do not support the functioning of the plant. The media must question the credibility of such cases filed against the protestors.
- The Government of India and the State Government must initiate dialogue, come to middle ground, stop persecution of persons and resolve the issue mutually.

Report of the Jury on Public Hearing on Koodankulam and State Suppression of Democratic Rights

INTRODUCTION

This report is based on the testimonies of persons who participated in the public hearing on Koodankulam and State Suppression of Democratic Rights, held on 14 May, 2012 in Lawrence Sundaram Hall, Loyola College, Chennai. The public hearing was organised by the Chennai Solidarity Group for Koodankulam Struggle, a coalition of individuals and organisations formed to lend solidarity to the anti-nuclear struggle in Koodankulam.

The participants of the public hearing were drawn from all walks of life. There were farmers, fishermen, homemakers, students, shop keepers, teachers, lawyers, professors, journalists and retired professionals to name a few who testified before the jury about critical concerns of the plant and the harassment they faced in the form of arrests and threats by state machinery when they chose to oppose the Nuclear Plant set up at Koodankulam. Representatives of People's Movement against Nuclear Energy (PMANE), People's Union of Civil Liberties (PUCL), Human Rights Protection Centre-Tamil Nadu and Amnesty International were other participants in the hearing. The jury also heard the statement of Mr S.P. Udayakumar and Mr V. Pushparayan over skype.

The jury also relied upon various materials that were placed before it such as the FIRs, a report by PUCL, submissions from the Human Rights Protection Centre, Amnesty International, confidential testimonies received from media persons, and email testimonies sent to the jury subsequent to the public hearing.

The objectives of the public hearing were:

- To know what people living in the area around Koodankulam were enduring as a result of their opposition to the nuclear power plant;
- To understand the use or abuse of criminal law and the nature of criminal cases filed against protestors;
- To get a sense of the information needs of people and the alleged aura of secrecy surrounding concerns raised by people living in and around Koodankulam
- To make recommendations that will allow for a resumption of dialogue between Government and people, and peaceful resolution of the deadlock.

BACKGROUND

Since July 2011, residents of Koodankulam, Idinthakarai, Kootapuli,

Perumanal and surrounding villages in Tirunelveli District of South Tamil Nadu have been protesting against the commissioning of the Koodankulam Nuclear Power Plant being set up by the Government of India. The protests have been totally non-violent and peaceful invoking Gandhian methods of agitation such as hunger strikes, dharnas and Satyagrahas. Critical questions have been posed by the protestors about the relevance, safety and the necessity of nuclear power generation thereby bringing a debate on the need to revisit the national nuclear policy. Additionally they have also raised concerns on the site suitability, safety, adequacy of water and environmental hazards that may arise and have sought information in this regard.

News reports indicate that the Government of Tamil Nadu initially expressed its support to the agitation, and even issued a cabinet resolution urging the Central Government to suspend work on the plant until the people's fears were allayed. However, the state government allowed the commencement of work at the plant on 19 March, 2012, a day after the Sankaran Koil by-election. Since then, huge police forces have been deployed in the areas around Koodankulam. The protestors were harassed in various forms.

TESTIMONIES

The following is a summary of the issues raised by the speakers. The hearing started with a testimony of S.P. Udayakumar via skype.

Mr Udayakumar told the jury that the Koodangulam project was imposed by the Government without conducting any public hearing or listening to the views of the persons living in the area nor was there any EIA except for an arbitrary one that was made up for Reactor Numbers 3, 4, 5, 6. Despite demands for the site evaluation report that was made for the past 23 years, the report of the same was not made public. According to him, the Nuclear Power Corporation of India Limited, (NPCIL) refuses to give any information by invoking security and confidentiality concerns even though independent experts had identified a number of problems with the due diligence undertaken and expressed various concerns relating to the plant. He told the hearing that the NPCIL could give information that were non-strategic and irrelevant to national security issues. The copy of the inter governmental liability agreement between India and Russia was not in the public realm and there was nothing to clarify issues of liability. He sought the document to be made public. Mr Udayakumar also raised many other technical concerns about the plant.

He told the hearing that the Government had not prepared the people for any evacuation nor have they conducted mock drill exercises for preparation. He sought an end to the repression and police atrocities perpetuated on peaceful protestors.

Mr Udayakumar sought the following:

- copy of site evaluation report and safety analysis report;
- fresh EIA (as opposed to the 23 year old one)
- Forming an independent national committee of experts on hydro-

geological, seismic and marine issues to look into technical issues.

- Revoking false cases, including cases of sedition and waging war against the state.
- Assurance that no water will be drawn from Kanyakumari dams or River Tamiraparani.
- Publishing of nuclear waste disposal proposal

This was followed by the testimony of Mr V. Pushparayan via skype. Mr. Pushparayan, who in addition to raising the issues raised by Mr Udayakumar, told the hearing that both the Central and State Governments were not ready to listen to their grievances and that there has been no interaction between the members of the struggle committee and scientists and the Government. People living in Idinthakarai and other villages nearby were literally in a siege and were unable to leave for any work ever since Section 144 of the Code of Criminal Procedure was imposed in and around the areas. All forms of mobility including, movement of basic amenities such as milk, groceries, were affected as vehicular movement was severely curtailed by the state machinery, especially in the days following March 19. This affected free movement of goods and services. Even now, people coming to the area were being harassed and questioned.

Persons who were seeking to work abroad were unable to apply for passports. Those that had already applied were not receiving their passports. In the meantime, to counter a campaign call by PMANE inviting people to return their electoral IDs to the Government as a protest, an article in a prominent English daily quoted unnamed police and revenue officials to convey a threat to protestors that their passports would be impounded and their ration facilities suspended.

The speakers highlighted the following:

1. No safety measures were in place and the people around the area were not trained for any kind of emergency. Some of them were extremely apprehensive that there could be a repeat of the Bhopal catastrophe.
2. The area is densely populated with nearly 70,000 people living within a radius of 5 kms of the plant. The secrecy around the plant was causing a great fear. The liability clause contained in the Indo-Russian agreement was not made public. So there was nothing to indicate what would be the liability in the event of a mishap. People fear immensely of radiation in a 30km radius.
3. Instead of addressing their fears the Government was using force to harass them and filing criminal cases against them under serious offences such as sedition, waging war against the state and causing disaffection between members of the community and arresting them.
4. There are regular shows of force and flag marches with

thousands of armed police and commandos deployed to contain and deter a non-violent struggle by unarmed people.

5. Barring a few, leaders of political parties are non committal when these issues are raised before them.

6. The impacts of the siege were still being felt by the villagers as the Government was still preventing access to services in many ways. Buses were not plying to the villages as before and due to the lack of transport that was otherwise available, students had to walk as much as nineteen kilometres to reach their schools or colleges and some were unable to write their exams. Teachers, from the protesting villages, who had invigilation duties during the exams, were also not spared. Police were threatening them even during their exams.

7. Fishermen, shopkeepers, vendors and others who wished to go to work were unable to carry on their work due to the imposition of section 144.

8. Notwithstanding the loss of livelihood, the lack of transport was affecting them very severely as they had to spend Rs. 200 for transport by auto while taking a bus would have cost a mere Rs. 5.

9. The police were constantly doing marches in the night and were threatening to arrest anyone who entered the village and also threatening them with detention under the Goondas Act.

10. The police were trying to instigate religious and communal dissent between different communities.

11. Women who were arrested for protesting against the plant told the jury that they were unaware of the charges while signatures were obtained on blank papers during their arrest. They were denied food and water and were all taken to the prison in Tiruchirapalli which is 260 km from Tirunelveli town. They were also subjected to all kinds of insults and humiliations.

12. No meeting relating to any issue critical of nuclear power is permitted in the entire district.

13. Meera Udayakumar, the principal of SACCER Matriculation School and wife of PMANE leader S.P. Udayakumar, spoke about how she was threatened many times, asked to leave the country and close the school. Subsequently, her school was attacked by miscreants and valuable materials belonging to the school were destroyed. Book shelves were broken, books were torn, her personal laptop stolen, the music system broken to pieces and furniture destroyed. She also narrated her experiences with the police and their deliberate inaction in not responding to her requests for police protection and for suitable action against those whom she suspected of causing the violence.

14. Some people spoke about the damaging role played by certain journalists who were being used by the Police to spread rumours within the community, and to convey police threats through their publications.

Such mischief, they said, vitiated the environment and made it difficult for the Government and protestors to dialogue meaningfully.

15. There were references to the illegal tactics used by the state Government to crush the dissent. Most recently, unnamed police and revenue officials were quoted in a prominent English daily threatening to impound the passports and ration facilities for those who wanted to return their electoral ID cards as a form of protest.

16. There was a common demand for relief from the curfew and a return to a life of peace. There was also a demand for dropping of all cases and the release of two activists, Satish Kumar and Mugilan who are still in jail.

17. Mr. Prashant Bhushan, Senior Advocate, Supreme Court and Mr. Sam Rajappa, a distinguished journalist and director of The Statesman School of Print Journalism, Kolkata, also spoke about the large number of cases of sedition that were being filed against the people and the lack of knowledge-sharing about the plant and the secrecy surrounding it.

FINDINGS

The restriction ON FREEDOM of speech

People living around the nuclear plant have strong reservations to its presence and have voiced their opposition to it. However ever since the plant was commissioned, any activities critical of the plant were countered with strong reaction as if talks on it were seditious and against the State. This resulted in the suppression of the people's right to freedom of speech. For example, Neeraj Jain, an anti-Nuclear activist from Pune, was invited by a faculty member of Manonmaniam Sundaranar University for a talk. The police reportedly spoke to the faculty member and tried to dissuade him from hosting the talk, asked for a copy of the presentation that was to be made and questioned the organiser as to how they could have a discussion on such a topic.

The jury also heard from the testimonies that immediately after the March 19 decision of the Tamil Nadu Government, the police made public announcements in Tirunelveli town that anyone who spoke against the Koodankulam Power project would be deemed anti national and would be arrested. Till date, no permissions are given in the entire district to hold meetings or demonstrations on the issue. Owners of all halls, auditoria, hotels and other places where such meetings are normally held in the entire district were clearly told that they cannot permit any such meeting critiquing the nuclear plant. They have been threatened that if they did so, they would face criminal charges.

The restriction on freedom of movement

The jury found from the testimonies and fact finding reports presented to it that the area around where the plant is situated is under siege with the imposition of section 144 CrPC. On 19 March, a 5 KM radius of the entire Radhapuram taluka was cordoned off while on the date of the hearing the area that was cordoned around the plant was 7 KM. The jury found that by preventing the villagers from moving freely to carry on their activities, by not providing them with public transport, the Government was placing complete restrictions on their freedom of movement. It was brought to the notice of the jury that children had to trudge many kilometres to school and vegetables and other food provisions were in short supply or extremely expensive due to the lack of transport.

The denial of information

The jury found that the protestors were seeking genuine information that would address their concerns about safety, and that there are valid reasons for such safety concerns. One participant told the hearing that recently there was a fire accident in a nearby village and enough water could not be summoned. When there are such lapses in dealing with a simple fire, he questioned the Government's preparedness to deal with a nuclear accident. The Protestors wanted copies of the site evaluation report, the safety analysis report, a fresh EIA, and wanted to be equipped with training so that they could face an eventuality if and before the plant is commissioned. Some participants also wanted an independent national committee of experts to look

into the hydrogeological, siting and marine issues. Instead of addressing their concerns, and furnishing them information to which they could be entitled under the Right to Information Act, the state police machinery was being used against them to harass them. What was being sought was the right to information guaranteed constitutionally under Article 21 and statutorily under the Right to Information Act.

The impact on the right to food

An article in *The Hindu* news paper indicated that there were plans by the police and revenue department to impound passports and nullify ration cards of the protestors because they wanted to return their voters ID as an act of protest. At a time when the Hon'ble Supreme Court is closely monitoring people's Right to Food, threatening to withdraw PDS facilities as a punishment for protesting is denying them their right to food and would be clearly illegal.

The impact on the right to education

By preventing effective transport from reaching the villages and making children walk long distances, especially when the children were writing their annual examination, the jury found that the children's right to education was deeply affected.

The impact on the right to health

The jury found that the restriction on movement had an impact on the right to health of the residents in the surrounding villages as they could not get adequate and timely medical help. In their testimonies, women highlighted how pregnant women could not get to the hospitals on time as even autos and private mode of vehicles were either charging heavily or were not willing to come.

The impact on the right to livelihood and the right to carry on trade and profession

Persons who appeared in the hearing indicated how their livelihood was completely affected. There were days on which fishermen were unable to go the sea and small shopkeepers who depended on transport to get their goods from Tirunelveli were severely hit as they were unable to purchase goods and eke out their living. Some persons also testified that they also had to sell the jewels of their wives to deal with the situation of long-drawn out protests and disruption of normal life.

The registration of cases

According to the Human Right Protection Centre (HRPC-TN) which are a group of lawyers who are providing legal aid to the affected people, until 20 April, 2012 there were 287 cases registered against various persons in two police stations, namely the Koodankulam Police Station and the Pazhavur Police Station.

The various offences under which the cases are registered are as follows;

121 IPC- Waging or attempting to wage war, or abetting waging of war against the Government of India, an offence that is punishable with death or imprisonment with life. (4 cases)

124 A Sedition (4 cases)

125 Waging war against any Asiatic Power in alliance with the Government of India (3 cases)

143 Punishment for unlawful assembly.

147 Punishment for rioting

148 Rioting armed with deadly weapon.

153(a) (2) Promoting enmity between different groups in a place of worship

186 Obstructing public servant in discharge of public functions.

188 Disobedience to order duly promulgated by public servant

323 Punishment for Causing hurt

341 Punishment for wrongful restraint

343 Wrongful confinement for three days

353 Assault or criminal force to deter public servant from discharging his duties.

379 Theft

427 Mischief causing damage to the amount of fifty rupees

447 Punishment for criminal trespass

452 House trespass after preparation for hurt, assault or wrongful restraint

505 Statements made conducing to public mischief

506 Criminal intimidation

Other statutes under which cases were filed include the Tamil Nadu Property (Prevention of Damage and Loss) Act 1992 (PPDL Act) and the Criminal Law Amendment Act.

Waging war against the Government of India

Persons involved in opposing the nuclear plant have been charged with various categories of offences some of which are serious such as “Waging war” against the Government of India and sedition. To give an example, FIR in Crime No. 315/11 dated 15.10.11 in Kooudankulam P.S is registered against S.P Udayakumar and 16 others under sections 109,121,124(A), 125, 153 (A), 343, 353, 505 (i)(b), 506(3) IPC and section 3 of the PPDL Act along with 7(i) (a) of the Criminal Law Amendment Act read with 120 B IPC.

The FIR given by the Village Administrative Officer, Koodangulam, narrates how the persons charged have jointly conspired for the past two months and ”

“have been conducting various protests.” Further, it says, “*On behalf of the District Administration, the protestors were informed that police restriction was in force in the area and therefore gathering there without permission is illegal and they were asked to cooperate to regulate traffic by removing the roadblocks. But the protestors without bothering about this spoke in a manner of spoiling the good relationship between India and Russia by stating that they will close the nuclear plant formed by the Russian men or will remove it!*”

The last sentence quoted above is to bring it within the purview of Section 125 IPC, namely “Waging war against any Asiatic Power in alliance with the Government of India.” One is at a loss to understand how making such a statement will affect the friendly relationship between the two countries. One is also at a loss to understand how this provision can be invoked as Russia is not an Asian power. All this clearly indicate how the penal provisions may never stand up to scrutiny in a court of law but have been used to threaten and frighten people.

This particular FIR nowhere makes out a case that the persons accused were waging war against the Government of India but only indicates that they were protesting. Nevertheless Section 121 has been included.

The submission made by PUCL before the jury also indicated of 8 FIRs they studied where Section 121 was invoked, there is no ingredient suggesting either directly or remotely that the persons named as accused either attempted to wage war or abetted war against the Government of India.

Sedition

Two cases (Crime No 372/11 and 373/11 in Koodungalam P.S) registered on the same day cover 3450 unnamed “other accused” under section 124 A. In order to attract the provisions of section 124 A, there must be specific words either spoken or written or there must be visible representations made by the person charged. By putting unnamed persons as “other accused,” clearly the police want to add names as and when they decide. According to the PUCL report, the alleged acts of threatening the sovereignty of India are mechanically included just so that an offence is made out in the specific incidents referred to. Similarly, while it is alleged that the protestors spoke about the plant, nothing is stated about how it caused disaffection.

Promoting enmity between different groups

Crime No. 277/11 indicates that the persons accused of the offence showed a film on the impact of the nuclear disaster in Chernobyl thereby causing fear among the people. In Cr 278/11, the VAO states that he “heard about a sms sent from a cell phone that informed people that a spoon of uranium caused cancer to over 900 crore people and that there were many tonnes of uranium in the plant and that the sms should be circulated widely.” The complainant however had not received the sms but had only heard about it. Thus on the basis of heresay the case was registered.

The plant has contract workers from North India. Some FIRs purported to have been made on their submissions claim that the agitators called them “north Indian Dogs” and “vacate immediately or I will kill you”. But these are

written in English with no details of the local addresses of the complainants and are identical in content thereby indicating that they could have been concocted.

The criminal cases seem to have been registered in a mechanical and arbitrary manner. Persons who were leading the struggle against the nuclear plant were implicated in various cases on identical offences described above. Against S.P. Udayakumar there were 8 cases, against Sivasubramaniam 9, against A.S Ravi 7, against Father Jesurajan 6 and against Sahaya Inita 5.

This systemic registration seems to support the allegation of the persons who appeared before the committee that cases have been foisted on them in view of their active participation against the nuclear plant.

Arrests and Treatment by police

The jury was informed about various arrests and in particular about the arrest of two young men Mugilan and Satish Kumar who were active in the protests against the plant. One deponent who was presenting Satish's case reported that he had been blindfolded and beaten up in police custody. During the hearing of their bail petitions before the trial court it was argued that they were naxalites. The Madras High Court (Madurai Bench) granted them bail but the police added their names to other crime numbers. They have moved the High Court again but fear that once again more cases will be foisted against them.

The jury found that many arrests were made very arbitrarily. Jayaseelan and Sujiba, a couple, have two differently abled children who have disability. Both of them were arrested even though they pleaded with the police that at least one of them may be permitted to go as they had the children to take care. There are many instances of both parents being arrested or a parent and an adult child from the same family being detained. A mentally challenged person was arrested despite documentary proof that he was mentally ill. Elderly persons above seventy years, physically challenged persons, persons who were having health issues such as heart conditions were all arrested without any discretion used regarding their situations or situations. The arrests were so mechanical that the jury found that one person who was not even in India during the protests was shown as an accused. The mechanical and arbitrary method of arrests indicate that the issue was not that the persons concerned had committed an offence but was more to prevent any kind of legitimate protest or difference of opinion against the nuclear power plant.

The principle "bail is the rule and jail is the exception" was not followed by the police nor did they follow the principles of DK Basu's case in arrest and detention. On the contrary the purpose seemed to be to cause maximum hardship as the women were taken to Tiruchi prison. Conditions that were imposed on bail required many of them to sign everyday causing them a lot of hardship as the whole day was spent in going to the police station. All the participants spoke about how abusive the police were towards them.

Two testimonies were received over email after the public hearing. One was from Mr. Rajalingam, a local villager opposed to the Koodankulam plant. He reported that on 11.5.2012, he was accosted by the police in the East Bazaar Street of Koodankulam town, abused and beaten up in public and dragged

into a police jeep and taken away. The second email was sent by a bystander, Mr. Selvakumar, who witnessed the entire incident.

Culpable inaction

The SACCER Matriculation School run by Meera Udayakumar was totally vandalised by anti social elements on March 1-2 and again on March 19-20 of 2012. When a complaint was lodged by her after the first attack naming some persons whom she suspected of having done the acts, the police wanted details about the registration of the school. When she met the DSP Kanyakumari, he told her to withdraw the names of the suspects. She refused. While some sort of police protection was given to her school after the first attack, the security was removed days before the second attack. She also received threatening letters.

The Jury found that the attack on her school took place the next day after the Chief Minister declared to give her go- ahead to the plant. As her husband S.P Udayakumar was the correspondent of the school and was one of the agitation leaders, the attack seems to have been done deliberately to not only to harm the family but also to browbeat the protestors into giving up opposition to the project.

While her FIR was registered, there has been no action on the same and no one has been questioned or arrested till the date of the public hearing. There has been culpable inaction on the part of the police in not proceeding with the investigation.

Role of the media

The jury found that a section of the media had started a vicious campaign against the movement and in particular against S.P Udayakumar. His phone numbers were printed in a news paper and reports were published that sought to attack his reputation to bring discredit to him and to the campaign against the plant. A section of the electronic media constantly branded three young men having different political affiliations but with a common cause against the nuclear plant as "Maoists" with news bulletins claiming that they had taken over the anti- plant struggle and as in Nandigram, they had "infiltrated the region" and the entire struggle is now under their influence. The views of the protestors and the objections raised by them were not even considered. This clearly indicated that a section of the media that was on the side of the Government had lost their sense of objectivity. In a confidential submission made to the jury, one media professional spoke of direct interference by the Intelligence Bureau leading to self-censorship in his agency.

RECOMMENDATIONS

- The right to speech is a constitutionally guaranteed right and the persons who are opposed to the plant are well within their right to speak about it. However by filing cases on sedition, waging war against the Government of India, promoting disaffection between groups of persons, etc the people were unnecessarily harassed by the

misuse of criminal law, and their constitutional rights have also been violated. The jury recommends that all cases against persons under these provisions be withdrawn as they were only exercising their legitimate right to protest and there was nothing to indicate that they were committing such serious offences.

- An order under Section 144 CrPC can be made only in an emergency. In rural areas such imposition for a large stretch of time can cause tremendous hardship. In this instance, it has resulted in denying people their right to life and livelihood. It seems to be pushing people towards despair and penury and does not augur well for their well being. The jury recommends that the order be revoked immediately and positive and pro active steps be taken by the Government to bring normalcy in the area.
- Persons who are protesting cannot be branded as anti- national and unpatriotic and peaceful protests cannot be equated to sedition or waging war against the state. The deliberate targeting of the protestors in criminal cases must stop and all cases filed under Waging War against the Government of India, Sedition, Promoting Enmity etc must be withdrawn immediately.
- All public transport systems must be immediately restored.
- All persons including Satish Kumar and Mugilan, who have been arbitrarily arrested for exercising their right to protest, must be released immediately.
- The Government of India must release information on safety, site evaluation and other such information that will not compromise strategic interests. In this connection the order of the Central Information Commission directing the Government to release such information should be complied with immediately.
- The inter governmental liability agreement between Russia and the Government of India must be made public in so far as it does not violate strategic interests.
- The talks with PMANE should be resumed and, a fair committee acceptable to villagers should be set up to address the technical concerns raised by them.
- The right to gather, assemble and protest are all part of the fundamental right to speech and the right of the protestors to protest and dissent should be respected.
- Action must be taken against miscreants who attacked the school run by Meera Udayakumar and her complaint investigated
- The media must be more responsible and play a role in giving alternate viewpoints. They should not create a fear psychosis or brand persons as Maoists simply because they do not support the functioning of the plant. The media must question the credibility of such cases filed

against the protestors.

- The Government of India and the State Government must initiate dialogue, come to middle ground, stop persecution of persons and resolve the issue mutually.

ANNEXURE 1
Koodankulam P.S
Valliyoor J.M.

Sl.No.	Crime No.	Sections
1.	340/11	U/S 143, 188, r/w 34 IPC
2.	341/11	
3.	342/11	
4.	344/11	
5.	345/11	
6.	350/11	
7.	365/11	
	366/11	
	370/11	
	371/11	
	374/11	
	375/11	
	377/11	
	379/11	
	380/11	
	382/11	
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	399/11	U/s 341, 143, 188, 353, r/w 34 IPC
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	400/11	U/s 143, 188 r/w 34 IPC
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	418/11	U/s 143, 188, 149, 291 IPC
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	1/12	143, 188, 149, 157, 291 IPC
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	3/12	143, 188, 149, 291 IPC
	4/12	3 of TNPPDL Act
	6/12	U/s 143, 188, 149, 157 291 IPC
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	17/12	U/S 153 (A), 295 (3), 505 (2) IPC
	18/12	143,149, 157, 188, 291 IPC
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	41/12	143, 188, 157, 291, r/w 149 IPC
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	45/12	U/S 143, 188, 153, 353, 291, 500 r/w 149 IPC
	46/12	U/s 143, 188, 157, 291, r/w 149 IPC
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	58/12	U/S. 143, 188, 120 (b), 157, 291 r/w 149 IPC
	59/12	U/S 143, 188, 341, 157, 291, r/w 149 IPC
	60/12	U/s 143, 188, 120 (b), 157, 291 r/w 149 IPC

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	63/12	U/s 143, 188, 157, 291, r/w 149 IPC
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	70/12	U/s 121, 143, 188, 153 (A), 341, 342, 500, 506 (i) 7 (i) (a) CLA. Act
	83/12	U/s 143, 188, 153, 291 r/w 149 IPC
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	110/12	U/s 143, 188, 157, 291, 149 r/w 283 IPC
	111/12	U/s 143, 188, 157, 291 r/w 149 IPC
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	134/12	U/s 143, 188, 157, 291 r/w 149 IPC
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	135/12	U/S. 143, 147, 148, 151, 121 (A) 188, 431 IPC and 3 of TNPPDL
	136/12	
	143/12	U/s 143, 188, 157, 291 r/w 149 IPC
	145/12	
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	147/12	
	151/12	U/s 143, 188, 157, 291, 187, 353 r/w 149 IPC

	152/12	U/s 143, 188, 157, 291, r/w 149 IPC
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	157/12	U/s 143, 188, 157, 291, 120 (b) r/w 149 IPC
	158/12	U/s 143, 188, 151, 152 (A) 500 IPC r/w 120 (b) IPC
	161/12	U/s 143, 188, 157, 291 IPC
	164/12	U/s 147, 148, 341, 294 (b) 307, 323, 324, 506 (ii) IPC 3 of TNPPDL Act r/w 149 IPC
	165/12	U/s 147, 148, 341, 294 (b) 307, 323, 324, 506 (ii) 379 IPC
	172/12	Accidental fire

Annexure 2

List of people who deposed.

- S.P. Udayakumar – Via Skype (Internet)
- V. Pushparayan – Via Skype (Internet)
- Sam Rajappa, Senior Journalist
- Joseph
- Josephyn Jaya , fishing community, Koottappulli
- Isakkimuthu , s/o Subramanya Nadar , farmer
- Jeromias, Uthankudi, driver
- Joyness, college student
- Nishanth, Uthangudi
- Pushparaj, Idinthakarai
- Satyamoorthy, Koodankulam, Construction worker
- Maria Therese – Koothakuli
- Everest, Idinthakarai, Vijayapathi panchayat member
- T.S.S. Mani, P.U.C.L -- TN-Pondy
- Vanniyarasu – Viduthalai Chiruthaikal – spokesperson
- Poongodi- Deposition about Mukilan
- Revathi – Deposition about Sathish Kumar
- Samuel Asirraj, Associate Professor, Manonmaniam Sundaranar University
- Adv. Ramesh, Tirunelveli , CPI ML
- Ramesh Gopalkrishnan, Amnesty International, Researcher
- Prashant Bhushan, Senior Advocate
- Meera Udayakumar, School Principal, Idinthakarai

Written Deposition:

1. Media deposition undisclosed. Submitted to the Panel

2. Human Rights Protection Centre – deposition submitted to the panel
3. Affidavits from Sathish Kumar and Mugilan

Reports

“ The Suppression of Democratic Dissent in Anti-Nuclear Protests by the Government of Tamil Nadu.” Fact-finding report of Sam Rajappa, Dr Gladston Xavier, Mahadevan, Rajan, Advocate Porkodi, April 12.

“(Ab)using Criminal Law to Suppress Peaceful Protests.” People’s Union of Civil Liberties, Tamil Nadu and Puducherry, May 12

“The foisted cases and arrests imposed by the State against the Koodankulam Protestors.” Booklet by the Human Rights Protection Centre (HRPC-TN)

Other Documents

Representation of Mrs Meera Udayakumar, given to the Chief Minister

Affidavit of Sathish Kumar

Affidavit of R Shanmugham

Email affidavits by S. Rajalingam and Selvakumar

Letter to the Chairman, Press Council of India, from V Geetha, Lakshmi Premkumar and 17 others along with annexure of news reports from Dinamalar, The Hindu about the media coverage of the issue

News report titled “Police preparing list of passport holders.” The Hindu. 11 May, 2012

Representation of PUCL to The Chief Secretary and five others, March 21, 2012.

FIRs Perused by the Jury

Cr. No. 246/11	Cr. No. 277/11	Cr. No. 278/11
Cr. No. 297/11	Cr. No. 335/11	Cr. No. 338/11
Cr. No. 353/11	Cr. No. 369/11	Cr. No. 372/11
Cr. No. 373/11	Cr. No. 387/11	Cr. No. 391/11
Cr. No. 71/12	Cr. No. 97/12	Cr. No. 134/12