

# **Public Hearing on Sankaralingapuram Incidents Interim Prima Facie Findings and Recommendations of the Jury Panel**

**Venue: T.S.S.Balu & Rani Mahal, Madurai Road, Thoothukudi**

**Date : March 17, 2002.**

The Jury Panel constituted by the Joint Co-ordination Committee on the Sankaralingapuram incident comprised the following members :

**Justice H. Suresh : *Former Judge, Bombay High Court***

**Mr. R.Ratnaswami, *Former Member, State Human Rights Commission, Tamilnadu***

**Dr.N. Markandan, *Former Vice-Chancellor, Gandhigram Rural Institute Deemed University***

**Mr.V.Karuppan, I.A.S. (Retd.)**

**Ms. Mythili Sivaraman, *National Vice President AIDWA***

**Mr. Ravikumar, *President, PUCL Tamilnadu and Pondicherry***

**The jury panel was headed by *Mr. Justice H. Suresh.***

The following were the parameters agreed to by the Jury Members prior to the commencement of their sittings.

1. To understand the caste tension between Naicker and Dalit community in Sankaralingapuram Panchayat during the run up to the conduct of and subsequent to, the Panchayat elections October 2001.
2. To find out whether there has been any bias on the part of the law enforcement officials, if and when complaints were preferred during or after the elections for the local body, particularly in Sankaralingapuram village.
3. Incidents leading to the road roko at Sankaralingapuram cross road on 16.11.2001, its conduct and how this resulted in the death of constable Murugan. Was there any violence initially used by the participants to the road roko? Was there any excess force exerted by the police?

4. Was any unwarranted force used by the police during the control of the mob at Sankaralingapuram cross road?
5. To enquire whether all standards relating to arrest were followed meticulously in the arrest of the accused in crime No.96/2001 (murder of Constable Murugan). Are there any truth in the allegations of violations of the DK Basu Judgement and the NHRC guidelines on arrest / during the arrest of Dalits from Sankaralingapuram and Challichettipatti and neighbouring villages?
6. Are there any truth in the allegations of various forms of violations by the law enforcement officials torture, destruction of houses, destruction of property, use of abusive language, molestation of women, robbery, looting, etc.
7. If these allegations are true, did they result in displacement of people in Sangaralingapuram, Challichettipatti, Nagalapuram and neighbouring villages and, if so, for how long were they displaced.
8. What is the veracity of the police version that the looting of houses and the damage done to the properties in Sankaralingapuram and Challichettipatti were carried out only by the members of the Naicker and Chettiar community and not by the police?
9. What is the veracity of the police proceedings in crime No 99 & 100/2001 of Pudur police station regarding the arrest of the Naicker and Chettiar community people, the charges against them and their plea of being guilty and the speedy disposal of the case on their admission and being fined alone?
10. Is there any truth in the allegation that the law enforcement officials and the District Collector have categorically ensured non-entry of civil society organisations, Human Rights Defenders into Sankaralingapuram and Challichettipatti villages immediately after the incident until 3<sup>rd</sup> December 2001?
11. What is the veracity behind the allegations that the police have categorically refused permission for any protest / public meeting in Tuticorin town and district from immediately after the incident even till today?
12. What are the actions so far initiated by or remedies provided by the District Administration, the State Administration, the State police, the High Court of Madras, the National and State Human Rights Commission, the National Women's Commission, the National SC/ST Commission to the complaints preferred to it by or on behalf of the affected people?

13. What is the value of the total damage and to property looted in Sankaralingapuram and neighbouring villages as a result of the incident of 16<sup>th</sup> November and its aftermath.

The Jury Panel commenced its first sitting at the TSS Balu & Rani Mahal on the Madurai Road after a word of welcome extended by Mr.V. Essakki Muthu, Convenor, Joint Coordination Committee to the Members of the Jury, the team of lawyers assisting the Jury, the victims who had gathered in large numbers to depose before the Jury members.

A mention was made that on the behalf of the Jury Panel an invitation was extended to 31 police officers (Police, Administrative, Medical, etc.) to appear before the Jury Panel on 17<sup>th</sup> March at 10.00 a.m. Except Ms.Kannagi Packianathan, IAS, Director, State SC/ST Commission who provided the Jury Panel a report of the National SC/ST Commission on the incident. None of the others had chosen to respond to the invitation extended.

This was followed by an introduction to the purpose, objectives, scope and modalities of the public hearing by Mr. Henri Tiphagne. Immediately thereafter Ms. Mythili Sivaraman, National Vice President of AIDWA and a member of the Jury Panel, responded to the welcome and introduction on behalf of the Jury members assuring the victims that they would be listened to patiently, and also thanking them for reposing confidence on the Jury members constituted by the Joint Co-ordination Committee.

In the first sitting of the panel that followed, ten witnesses were examined. The Hearing commenced with Mrs. Petchiammal W/o Vijayan, a staff of the Judicial Magistrate Court, Kovilpatty, now under suspension, because of her being falsely implicated on the charges of the murder of Constable Murugan. She was followed thereafter by a few other victims and representatives from political parties, a sitting MLA and the Catholic Bishop of the Tuticorin Diocese. Mr.Rengaramanujam, an office bearer of the Naicker Community's Association in Tuticorin District also deposed before the Jury and left with the satisfaction that the recommendations of the Jury would contribute to peace and justice in Sankaralingapuram village. In the afternoon the Jury panel divided itself into benches, one headed by Justice H. Suresh and comprising of DR. N. Markandan and V.Karuppan IAS (Retd), and the second headed by Mr. R.Ratnaswami and comprising Mr. Ravikumar and Ms.Mythili Sivaraman. The first panel examined 13 witnesses while the second examined 15

witnesses in their separate sittings. Thus a total of 38 witnesses were examined by the jury at its sitting on 16<sup>th</sup> March 2002 .

On 17<sup>th</sup> March 2002 while two members of the panel, namely Dr.V. Markandan and Mr.Ravi Kumar undertook a visit to the Challisettipatti and Sankaralingapuram villages the rest of the members made themselves available for any witnesses who chose to respond to the invitation made available to them to appear before the panel on 17<sup>th</sup> March 2002

### **Observations:**

For the last day and a half, we have heard witnesses. Some of them are the victims of what transpired on 16<sup>th</sup> November 2001 and thereafter, with others are political and social activists. We have been presented with a large number of (107) statements of affected persons. We have had the occasion to look into contemporaneous documents and reports. All these unmistakably show a tale of large scale violation of human rights.

Murugan, of course died in the incident of rasta – roko. We want to make it clear that we do not support any killing. Murugan’s death has to be properly investigated. It all happened in the melee, and who was actually responsible for his death will have to be established. There has to be a proper, impartial investigation, which is lacking in the present case.

Firstly, no witness has said about any enmity against Murugan so as to impute any motive to any particular accused to eliminate Murugan. On the other hand, evidence shows that Murugan, who was not on duty that day and was in mufty and was not concerned with the control of “rasta-roko”, was coming by bus. When he saw the rasta-roko and the police trying to disperse the crowd, he on his own jumped into the fray, and finally succumbed to the injuries that he suffered. The only fact that Murugan happened to be a constable and a “Naicker” does not mean that the villagers from Sankaralingapuram had any special grievance against him.

Secondly, the previous day there was some incident between Caste Hindus and Dalits and the police had registered a case against the Dalits. The fact that the police had arrested only the Dalits led to the rasta on the next day morning. Even with regard to this incident, there was no mention of Murugan at all and, therefore, Dalits could have had no intention of killing Murugan at any time. He died because he unnecessarily jumped into the midst of riot and since the parties were throwing stones, anything could have happened to him.

Thirdly, the reaction of the police for the incident of 16<sup>th</sup> November, 2001, manifested in the arrest of such a large number of Dalits, and the manner in which they arrested them can never find justification under any human rights law. They arrested men, women and children at random. They mercilessly beat them up and tortured them. They indulged in all sorts of violence against Dalits irrespective of their age, their health, their gender, and abused them brutally. Women after women stated before us that they were almost stripped of their clothes in the police station and they were just made to starve for days together. Children were not given food. Women were not given proper clothes, and hence they had to remain, for days together, in the same clothes, which they had worn at the time when they went to the police station. Every norm of the law, especially as stated in D.K.Basu case with regard to arrest, was violated. We will deal with this evidence in detail when we make our final report. Suffice it to say that the police were so brutal in their attack and arrest of these Dalits men, women and children, that their over zealousness manifested in their desire to teach a lesson to the Dalits exceeded all limits of decency and decorum.

Fourthly, on the basis of the extensive tabulation of materials damaged and stolen from Sankaralingapuram and Challichettipatti dalit houses, of the exhibition of some of the damaged goods that we had occasion to witness, and of our own visit to Sankaralingapuram village and seeing the photographs that have been produced to us, we are absolutely convinced that the dalit families of Sankaralingapuram and Challichettipatti have sustained huge losses. One of the witnesses who had deposed before us, Rev. Fr. Denslil Raja of Tuticorin Multipurpose Social Service Society, informs us, and has produced documents to show that 17 members of the Ulavar Magalir Mandram of Sankaralingapuram had obtained a loan amount of 63,000 on 3.11.2000, that 19 members of the Sagai Magalir Mandaram, Sankaralingapuram had obtained a total loan amount of 63,000, that the Ilam Thendran Magalir Mandram obtained a total loan amount of 41,500 and that 15 members of Valarmathi Magalir Mandram had obtained a total loan amount of 22,000/- . Thus, there is evidence to show that a total amount of Rs.1,89,500/- was available in the village. Besides, witnesses deposed to us spoke about larger sums of money being available for very specific purposes, such as a son leaving abroad, money to be paid to colleges, sales proceeds from the sale of goats, money kept aside for a surgery etc.,

One Subburaj, son of Durairaj, a cable TV operator in the dalit residential area of Sankaralingapuram who was a witnesses to the entry of the police into the village on

16<sup>th</sup> November and 3 attacks of the police the final one ending at 1.00 a.m. on 17<sup>th</sup> November, narrates a vivid eye witness account of the attack on several houses he had witnessed while hiding in the first floor of the house, carried out by around 20 people in uniform and accompanied by the Thalayari of the village. Jury also had occasion to meet an old lady of about 90 years named Packiam during our visit to Sankaralingapuram, who also provided corroborative evidence to the statement of Mr. Subburaj confirming that it was the police who came several times on 16<sup>th</sup> November (referred by her as the day of occurrence without mentioning the date), that it was the uniformed policemen who damaged the dalit houses, the property inside the houses and also looted money and the materials from the houses. Incidentally she was the only person who was left back in the village. Her evidence is corroborated by her daughter-in-law Jayalakshmi, who deposed before the Jury.

We were also informed that as they returned back to the villages the dalit residents of Sankaralingapuram, have preferred petitions to the District Collector between 19<sup>th</sup> January 2002 and 7<sup>th</sup> February 2002 detailing loss of property in their houses. We were also informed that it was only after notices from the Jury panel were sent to the District Collector that there have been visits of Tahsildars attempting to enquire into the actual quantum of losses.

While so, it is pertinent to observe that there are two FIRs that have been registered in relation to the attack of the Dalit houses in Sankaralingapuram village – crime No. 99 & 100/2001 of Pudur police station: the first on a complaint by one Karuppusamy Thevar, the Thalayari of the village, and the second by one Packiaraj, son of Paranjothi of Sankaralingapuram. The first FIR notes the occurrence at 2 am on 18<sup>th</sup> November and the second FIR notes the occurrence at 3.30 am on 18<sup>th</sup> November. However, both the complaints are registered at Pudur police station just 6 kms from the place of occurrence at 6 pm on 19<sup>th</sup>, one 40 hrs and the other 38 and ½ hrs after the occurrence. From the records perused by us namely, the copy of the FIRs, the final report, and the judgement of the Judicial Magistrate Vilathikuklam in C.C. 9/02 and 10/02, we observe the following:

- Extensive delay in the registration of both the FIRs – one 38 ½ hrs and the other 40 hrs.
- Although only one of the FIRs mentions the Naickers as the accused, the charge sheets in both the cases names 14 and 5 persons under each case as Naickers.
- The value of property damaged in one has been made at Rs.76,200/- while it was Rs.1,19,250 in the other.

In the both the FIRs no case of theft has been registered. Although the attack was on dalit houses by upper caste people, we are shocked to see that SC/ST (PA) Act has not been invoked in the FIRs. We note that the charge sheets were prepared on 31<sup>st</sup> December 2001, and that the accused were released on station bail. The copies of the charge sheets have been handed over to the accused on 7<sup>th</sup> February 2002 and that they had admitted the offence and upon their admitting of the offence they were convicted upto the raising of the court and were directed to pay a fine of Rs.3000/- each.

Fifthly, there is considerable evidence to hold that after this incident people were prevented from entering into the village by policemen guarding the village until 3<sup>rd</sup> December 2001 when the sitting MLA, Mr. Thirumavalavan, was formally allowed to enter into the village. Many functionaries of political parties, human rights defenders, the Catholic Bishop of Tuticorin diocese, including a member of the National Human Rights Commission's National Core Group for NGOs Mr. Henri Tiphagne, who wanted to have a first hand inspection of the village and to meet all the affected persons were categorically denied entry until 3<sup>rd</sup> December 2001. This was inspite of the fact that Mr. V.Balachandran, IPS, the IG of Polcie (Law and Order) had assured in a press statement appearing on 23<sup>rd</sup> November that any one can enter the village. But the police plainly denied this right.

Sixthly many of the women who deposed complained about the abusive language used by the police holding them responsible for the murder of Murugan. The language exclusively included sexual overtones. These abuses ranged from constables upto Senior Officials such as Asst. Superintendent of Police Mr. Arun IPS . More of this we will deal in our detailed report.

Thus in our opinion, the above incidents and facts particularly as deposed before us, clearly indicate large scale violation of human rights, as follows:

- A. The Dalits were arbitrarily arrested and detained in the police lock up, without following the norms laid down by the Supreme Court particularly in Jogendrasingh's case and in D.K.Basu's case.
- B. After arrest they were subjected to all sorts of brutal treatment and torture, which is again a violation of human rights.
- C. In particular, large number of women and children were arrested and they were made to remove their clothings and thus made to suffer the worst violation of human dignity. They also did not observe the requirements of law both in the matter of arrest of women and in the matter of detention.

- D. The Supreme Court has said repeatedly that Right to life includes Right to live with dignity and it includes all that goes with life. The police violated these fundamental rights of the Dalits.
- E. Further, as the police damaged and destroyed the homes of the Dalits, they also lost their right to shelter, right to livelihood and their right to their peaceful environment.
- F. They also lost their right to freedom of speech and expression. Today, we could see fear and disbelief writ large on their faces and they are not sure of their personal safety or security.
- G. If the genesis of the incident is true as stated by the Dalits that the Upper castes could not imagine a Dalit to contest an election against their candidate and that is how they wanted to attack Vijayan and others, then, it also means their right to democracy also stands denied to them. Right to democracy is also a human right.
- H. As we have witnessed in many other clashes, the police have the tendency to take the side of the strong against the weak. In communal riots the police are generally on the side of the majority community and the worst victims are always the minority community. In the present case, the police have behaved in such a way which clearly indicates a bias against the weak – the Dalits. It is in this sense they have violated their duty to treat all the communities equally and with respect
- I. We have heard from member of witnesses that the police – both men and women have repeated by used castisiet expressions against these Dalits, and have also used abusive, vulgar language against Dalit men, and women in particular. All these police personnel have become liable for prosecution under the SC/ST (POA) Act.

**We therefore recommend**

- a) The Government should order an impartial enquiry – by a sitting Judge of the Madras High Court, so that suitable action be taken against the police who have violated Human Rights as above.
- b) Large number of men and women, about 179 of them, have been charged in the case of the death of Murugan. It appears that all, except 8, of them have been released on bail. We recommend that an impartial scrutiny of the evidence be done immediately and all those against whom there is no evidence whatever should be discharged forthwith. We believe that in a spontaneous incident of the



type that took place on 16<sup>th</sup> November 2001, such a large number could ever be charged with murder and rioting – such a large number indiscriminately included, generally results in acquittal. But acquittal after a long period of trial is nothing but an unjustifiable punishment.

- c) All those who have suffered damages in the destruction of their homes and articles, should be adequately and immediately compensated. Since the people have submitted a detailed submission of their property loss which has been tabulated and presented to us the same, may be used as the basis for any calculation of loss.
- d) There is considerable evidence against ASP Arun, IPS DIG Jangid IPS, S.P. Mr. Sumit Saran, Sub Inspector Isakki, Selvaraj, Inspector Chinnachamy, and many others for their inhuman and biased attitude which has mainly been responsible for escalation of violence and suffering by the people. There is also evidence to show that the District Collector Mr. Kumar Jayanth IAS did not visit the village for the first 14 days. This has been corroborated from a report of the National SC/ST Commission. In these circumstances the above named police officials including the Collector should be transferred so as to permit a proper climate for an impartial judicial enquiry being initiated against them.
- e) The District Administration should be directed to constitute a peace committee comprising of members from different groups including equal representation for women so that peace and confidence is gradually rehabilitated in this region.
- f) In view of the extensive depositions made to us by women witnesses revealing extreme forms of torture, use of abusive and vulgar language with sexist overtones, illegal detention, being falsely implicated in the murder case, non-following of guidelines for arrest, stripping them of clothes, being denied old age pensions, etc. we recommend that the newly constituted State Commission for Women for Tamilnadu headed by Dr. V. Vasanthi Devi be requested to hold an urgent sitting in Sankaralingapuram village with due notice to the organizers of this Jury panel to ensure the presence of these women and thereafter initiate urgent recommendations to the Government on the basis of its conclusions. We further recommend that the State Commission for Women pay very special attention to the specific cases of Mrs. Petchiammal (a person of Nadar caste origin who has married a Dalit), an employee of the

Judicial Magistrate Court at Kovilpatti and four other women Government servants who have been suspended from service (even though we strongly believe on the basis of evidence that they were not at the place of occurrence) and that steps are initiated for their early reinstatement

- g) In view of our prima facie observations of the proceedings in Crime No.99 & 100/2001 and the wilful negligence of the investigation officer in those cases in not assessing the loss by visiting the houses, seizing damaged property and producing them before the Judicial Magistrate Court, we demand that a departmental enquiry be initiated against this investigation office for his gross and wilful negligence in the investigation of this case. Given the sensitivity of the case and the fact that the DSP, the SP, and the DIG were aware of complaints of loss of property and since they were personally monitoring the entire incidents in the area, all the three of them should be suspended and departmental enquiry be also initiated against them.
- h) We further recommend that neither the District Collector nor any of the police officials in the district who were serving in the district/range at the time of the incident shall be required to assess any damage or loss of property in Sankaralingapuram. However, since this is a complaint of human rights violation against the instrumentalities of the state, we demand that the Special Investigation Team constituted by the Government of Tamil Nadu, pursuant to the judgement of Madras High Court in Tamil Nadu Pazhangudi Makkal Sangam Vs. State of Tamil Nadu be required to register a case, investigate the same and prosecute those responsible not only for the occurrence including all senior police officials who are also found responsible for the occurrence.

**The final report of the Jury Panel with our observations and detailed recommendations shall be made available after two weeks from today.**

(Justice H. Suresh)

(R.Ratnaswami)

(Dr. N. Markandan)

(V.Karuppan)

(Mythili Sivaraman)

(Ravikumar)