

**IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
(Special Original Jurisdiction)**

WEDNESDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND TWENTY

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE SRI JITENDRA KUMAR MAHESHWARI
AND
THE HONOURABLE SMT. JUSTICE LALITHA KANNEGANTI**



WRIT PETITION NO: 10200 OF 2020

Between:

1. Byung Kook Kang, son of Dae YeolKang, Aged 52 years old, resident of 100, Pyeongchon-daero 40beon-gil, Dongan-gu, Anyang-si, Gyeonggi-do, South Korea, presently at Novotel Hotel, Vishakhapatnam
2. Hyung Suk Ryu,, son of Jae Ho Ryu, Aged 45 years old, resident of 188, Seochojungang-ro, Seocho-gu, Seoul, South Korea, presently at Novotel Hotel, Visakhapatnam
3. Kyung Up Ho, son of Ki Sung Ho, Aged 49 years old, resident of 248, Incheon-ro, Yongsan-gu, Seoul, South Korea, presently at Novotel Hotel, Visakhapatnam
4. GeunUk Kim, son of Jong GiKim, Aged 43 years old, resident of 77, Jingwan 4-ro, Eunpyeong-gu, Seoul, South Korea, Presently at Novotel Hotel, Visakhapatnam

...PETITIONERS

AND

1. The State of Andhra Pradesh, Represented by its Secretary, Home Department, Velagapudi, Amravathi, Andhra Pradesh
2. Andhra Pradesh Police Through the Asst. Commissioner of Police (Investigation Officer), Dwarka Sub-Division, Visakhapatnam City, Andhra Pradesh
3. The Union of India,, Through the Secretary, Ministry of External Affairs, South Block, New Delhi 110011, India
4. Director General of Civil Aviation Through the Director,, Office of the Director General of Civil Aviation, Opposite Safdarjung Airport, New Delhi 110033

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, order or direction more particularly in the nature of a Writ of Mandamus and/or Certiorari and/or any other appropriate writ(s)

a. Issue an appropriate, writ, order or direction, including a writ of certiorari to set aside the letter dated 28.05.2020 issued by Respondent No. 2;

b. Issue an appropriate, writ, order or direction, including a writ of mandamus or certiorari to set aside any directions / orders passed the Respondent(s) to disallow the travel of the Petitioners out of India;

c. Issue an appropriate, writ, order or direction, including a writ of mandamus directing the Respondents to issue appropriate and necessary instructions facilitating / allowing the travel of the Petitioners out of India;

**Counsel for the Petitioners: SRI MUKUL ROHATGI, Sr.Counsel for
SRI D.NARENDAR NAIK**

Counsel for Respondent Nos.1 & 2: THE ADVOCATE GENERAL

Counsel for Respondent Nos.3 & 4: SRI N.HARINATH, Asst.Sol.General

The Court made the following: ORDER

HIGH COURT OF ANDHRA PRADESH: AMARAVATI

CHIEF JUSTICE J.K.MAHESHWARI

&

SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION No.10200 of 2020

Byung Kook Kang, Son of Dae Yeol Kang,
aged 52 years, resident of 100, Pyeongchon-
daero 40beon-gil, Dongan-gu, Anyang-si,
Gyeonggi-do, South Korea, Presently at
Novotel Hotel, Visakhapatnam and 3 others.

... Petitioners.

Versus

The State of Andhra Pradesh,
Rep. by its Secretary, Home Department,
Velagapudi, Amaravati, Andhra Pradesh,
and three others.

... Respondents.

Counsel for Petitioners : Sri Mukul Rohatgi, Sr. Counsel
Sri D.Narendar Naik
Counsel for Respondents 1 & 2 : Advocate General
Counsel for Respondents 3 & 4 : Asst. Solicitor General of India

Heard and reserved on : 22.06.2020

Orders passed on : 24.06.2020

ORDER

Per J.K. MAHESHWARI, CJ

The writ petition is filed by the employees of LG Chem Ltd., (LGC) who are South Korean nationals, questioning the letter dated 28.05.2020 addressed by the Assistant Commissioner of Police, Dwaraka Sub Division, Visakhapatnam City, seeking the following directions:

- a) Issue an appropriate, writ, order or direction, including a writ of certiorari to set aside the letter dated 28.05.2020 issued by the 2nd respondent.

pleaded that the presence of the petitioners in their country is very much essential as they have their own personal obligations to be performed. Hence, the petitioners approached this Court by way of this writ petition.

4. Though this matter has to be listed before a learned Single Judge, as the W.P (PIL) Nos.112, 117, 119 and 147 of 2020 are pending before this Court with regard to the incident of Styrene gas leakage at M/s LG Polymers, Visakhapatnam, this writ petition is listed before us.

5. We have heard Sri Mukul Rohatgi, learned Senior Counsel appearing on behalf of the petitioners, learned Advocate General appearing on behalf of respondents 1 and 2 and learned Assistant Solicitor General of India appearing on behalf of respondents 3 and 4.

6. On behalf of the petitioners, learned Senior Counsel submitted that the petitioners have nothing to do with the affairs of LGPI, Visakhapatnam and they are South Korea nationals and employees of LGC, South Korea, as such they cannot be restrained from leaving to their country. Learned Senior Counsel further submits that the petitioners will cooperate with the process of enquiry/investigation undertaken by any agency and it is neither feasible nor warranted for them to come to India and participate in the proceedings whenever the respondents require their presence. He further submits that whenever any queries or support is required from petitioners, they are ready to cooperate from South Korea.

7. Learned Advocate General appearing on behalf of respondents 1 and 2 submits that the petitioners, who are experts and who have conducted inspection, are equipped with the reasons for the leakage and as such, their

- b) Issue an appropriate, writ, order or direction, including a writ of Mandamus or Certiorari to set any directions / orders passed by the respondents to disallow the travel of the petitioners out of India.
- c) Issue an appropriate, writ, order or direction, including a writ of Mandamus directing the respondents to issue appropriate and necessary instructions facilitating / allowing the travel of the petitioners out of India.

2. The case of the petitioners is that the 1st petitioner is an Expert Advisor (Judicial Affairs), 2nd petitioner is a Professional (Judicial Affairs) in the Legal Team of LGC, 3rd petitioner is a Vice President (Public Relation) in the Communication Strategy Task of LGC and the 4th petitioner is a Professional (Human Resources & Employee Relations), Global HR Team of LGC. They have visited the LGPI plant at Visakhapatnam as a part of a delegation from LGC (South Korean Team) with a view to supplement and assist the efforts being undertaken by LGPI in assessing the situation and extending care for those affected by the incident of Styrene gas leakage. Though the petitioners have addressed the letters dated 01.06.2020 and 05.06.2020 requesting the respondent police to record their statements, but the same was delayed by the respondents without any reason and further they have restrained the petitioners from travelling to their country under the garb of pending investigation.

3. It is the further case of the petitioners that LGPI is a wholly owned subsidiary of LG Chemical India Private Limited (LGCI). LGCI in turn is wholly owned subsidiary of LGC. LGPI works and operates independently. The petitioners are employees of LGC and they are neither employees nor Directors of LGPI. Moreover, they are not involved in the day-to-day operations of LGPI's plant at Visakhapatnam. It is the further

9. It is an undisputed fact that the order passed by this Court on 22.05.2020 in W.P.(PIL) No.112 of 2020 has no application to the present petitioners, as they are neither the employees nor the Directors of M/s. LG Polymers India Private Limited, but they are the employees of LGC, South Korea, who have visited M/s. LG Polymers India Private Limited to supplement and assist in the efforts of LGPI and to find out the cause for the incident. The petitioners are members of the Expert Team of the parent company, however, their expertise may be helpful to the investigation/enquiry or trial. If their response is required in the enquiry or investigation on the queries put forth by the respective agencies in the context of the inspection made by the Expert Team, it can be gathered. In case, their statements are required to the Court, as their statements under Section 161 Cr.P.C. were recorded by the police, as stated by the learned Advocate General, then their presence, if required in the opinion of the Court, may be availed. In any event, in the facts of the present case in which the petitioners came to India as a part of the Expert Team being employees of the parent company, primarily they may not have any liability of the incident, more so, when they are not the employees of the LGPI and are the employees of the parent Company – LGC and came to India from South Korea to assist or to find out the cause for the incident. In such a situation, we deem it appropriate to direct the authorities to permit the petitioners to travel from India to South Korea, but by way of abundant caution, subject to compliance of the following directions:

- a) The petitioners shall file individual affidavits indicating their permanent residential address and of the Company along with their e-mail address, telephone number and mobile number,
-

presence in the process of investigation is very much essential. He further submits that the concerned police have recorded the statements of the petitioners under Section 161 of Cr.P.C and for any further clarification, corroboration or for any other purpose during the course of enquiry or trial, their presence is very much required. Learned Advocate General submits that the petitioners can be permitted to leave India provided they give an undertaking or affidavit to appear before the investigating agency or Court whenever their presence is required, which is vehemently opposed by the learned Senior Counsel stating that it is neither required nor feasible for the petitioners to come to India.

8. This Court, basing on the report received from the State Legal Services Authority, Andhra Pradesh, stating that an untoward incident of gas leakage has taken place at M/s. LG Polymers India Private Limited, RR Venkatapuram, Visakhapatnam, in which number of casualties have been reported and number of persons were hospitalized, has taken *suo motu* cognizance of the same *vide* W.P.(PIL) No.112 of 2020, wherein taking into consideration the plight of the affected people, this Court has passed slew of directions on different dates. On 22.05.2020, Sri S.Ravi, learned Senior Counsel appearing on behalf of the Company, submitted that the Directors of the Company have surrendered their passports and they are in India. This Court has directed that their passports shall not be released without the leave of the Court and they shall not be permitted to go outside the country keeping in mind the severity and magnitude of the issue and the larger public interest.

before the Registrar (Judicial) within three days from the date of receipt of a copy of this order.

- b) In the said affidavit, it be specified that as and when any response is sought for during investigation/enquiry by the authorities, the same will be furnished within two weeks from the date of receipt of such requisition, along with all relevant details as they possess.
- c) In the affidavit, the petitioners shall also specify that if their presence is required by the Court, they shall remain present as and when directed. But, for the purpose of investigation/enquiry, if the presence of the petitioners is felt essential by the authorities, they are at liberty to apply to the Court and in compliance to the directions of the Court, the petitioners shall tender their presence in the investigation/enquiry.

10. With the above directions, this writ petition is disposed of. No order as to costs. As a sequel, all the pending miscellaneous applications shall stand closed.

SD/- K.TATA RAO
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Secretary, Home Department, State of Andhra Pradesh, Velagapudi, Amravathi, Andhra Pradesh
2. The Asst. Commissioner of Police (Investigation Officer), Andhra Pradesh Police Dwarka Sub-Division, Visakhapatnam City, Andhra Pradesh
3. The Secretary, Union of India, Ministry of External Affairs, South Block, New Delhi 110011, India
4. The Director, Director General of Civil Aviation, Office of the Director General of Civil Aviation, Opposite Safdarjung Airport, New Delhi 110033
5. One CC to SRI D.NARENDAR NAIK, Advocate [OPUC]
6. One CC to SRI N.HARINATH, Asst.Sol.General [OPUC]
7. Two CCs to the Advocate General, High Court of Andhra Pradesh. [OUT]
8. Two C.D. Copies.

MRC

Swathi

HIGH COURT

DATED:24/06/2020

ORDER

WP.No.10200 of 2020



DISPOSING OF THE WRIT PETITION
WITHOUT COSTS

$\frac{10}{\text{Scatter}}$ 24/6/2020