

**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: 10223 OF 2020

Between:

Kug Lae Noh, son of Seung JaeNoh, Aged 56 years old, Resident of 88 Zamsil-ro, Songpa-gu, Seoul, South Korea, Presently R/o Novotel Hotel, Vishakhapatnam

AND

...PETITIONER

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 Petitioner 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 Petitioner 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.10223 of 2020

Kug Lae Noh, Son of Seung Jae Noh, aged 56 years, resident of 88 Zamsil-ro, Songpa-gu, Seoul, South Korea, Presently at Novotel Hotel, Visakhapatnam.

... Petitioner.

Versus

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

... Respondents.

Counsel for Petitioner : Sri Mukul Rohatgi, Sr.Counsel
For 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 employee of LG Chem Ltd., (LGC), who is a South Korean national, 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.

- 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 petitioner 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 petitioner out of India.

2. The case of the petitioner is that the petitioner is the Executive Vice President of the Petrochemicals business of LG Chemicals Korea (LGC). He has 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 petitioner has addressed the letters dated 01.06.2020 and 05.06.2020 requesting the respondent police to record his statement, but the same was delayed by the respondents without any reason and further they have restrained the petitioner from travelling to his country under the garb of pending investigation.

3. It is the further case of the petitioner 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 petitioner is an employee of LGC and he is neither employee nor Director of LGPI. Moreover, he is not involved in the day-to-day operations of LGPI's plant at Visakhapatnam. It is further pleaded that the presence of the petitioner in his country is very much essential as he has his own personal obligations to be performed. Hence, the petitioner 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 petitioner, 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 petitioner, learned Senior Counsel submitted that the petitioner has nothing to do with the affairs of LGPI, Visakhapatnam, and he is a South Korea national and employee of LGC, South Korea, as such he cannot be restrained from leaving to his country. Learned Senior Counsel further submits that the petitioner will cooperate with the process of enquiry/investigation undertaken by any agency and it is neither feasible nor warranted for him to come to India and participate in the proceedings whenever the respondents require his presence. He further submits that whenever any queries or support is required from petitioner, he is ready to cooperate from South Korea.

7. Learned Advocate General appearing on behalf of respondents 1 and 2 submits that the petitioner, who is an expert and who have conducted inspection, is equipped with the reasons for the leakage and as such, his presence in the process of investigation is very much essential. He further submits that the concerned police have recorded the statements of the petitioner 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, his presence is very much required. Learned Advocate General submits that the petitioner can be permitted to leave India provided he gives an undertaking or affidavit to appear before the investigating agency or Court whenever his presence is required, which is vehemently opposed by the learned Senior Counsel appearing for the petitioner stating that it is neither required nor feasible for the petitioner 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.

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 petitioner, as he is neither the employee nor the Director of M/s. LG Polymers India Private Limited, but he is the employee of LGC, South

Korea, who 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 petitioner is a member of the Expert Team of the parent company, however, his expertise may be helpful to the investigation/enquiry or trial. If his 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, his statement is required to the Court, as his statement under Section 161 Cr.P.C. was recorded by the police, as stated by the learned Advocate General, then his 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 petitioner came to India as a part of the Expert Team being employee of the parent company, primarily he may not have any liability of the incident, more so, when he is not the employee of the LGPI and is the employee 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 petitioner to travel from India to South Korea, but by way of abundant caution, subject to compliance of the following directions:

- 1) The petitioner shall file an affidavit indicating his permanent residential address and of the Company along with his e-mail address, telephone number and mobile number, before the Registrar (Judicial) within three days from the date of receipt of a copy of this order.
- 2) 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 he possesses.

- 3) In the affidavit, the petitioner shall also specify that if his presence is required by the Court, he shall remain present as and when directed. But, for the purpose of investigation/enquiry, if the presence of the petitioner 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 petitioner shall tender his 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



HIGH COURT

DATED:24/06/2020

ORDER

WP.No.10223 of 2020



DISPOSING OF THE WRIT PETITION
WITHOUT COSTS

24/6/20
BD
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