

BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
ORIGINAL APPLICATION NO. 73 OF 2020

IN THE MATTER OF:

In Re: Gas Leak at LG Polymers Chemical Plant in RR Venkatapuram  
Village in Andhra Pradesh

LG Polymers India Pvt. Ltd.

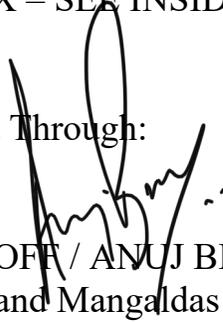
...Applicant

**AFFIDAVIT ON BEHALF OF LG POLYMERS INDIA PRIVATE  
LIMITED TO BRING ON RECORD ADDITIONAL DOCUMENTS**

PAPER-BOOK

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Filed Through:

  
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PLACE: NEW DELHI

DATED: 29 October 2020

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BEFORE THE NATIONAL GREEN TRIBUNAL  
 PRINCIPAL BENCH, NEW DELHI  
 ORIGINAL APPLICATION NO. 73 OF 2020

IN THE MATTER OF:

In Re: Gas Leak at LG Polymers Chemical Plant in RR Venkatapuram  
 Village in Andhra Pradesh

LG Polymers India Pvt Ltd  
 Applicant

.....

**AFFIDAVIT ON BEHALF OF L.G. POLYMERS INDIA PRIVATE  
 LIMITED TO BRING ON RECORD ADDITIONAL DOCUMENTS**

I, P. Arun Kumar, son of Mr. P. Bhaskar Rao, aged about 50 years,  
 working as the Dy. Manager – Legal with L.G. Polymers India Private  
 Limited having my office at R.R. Venkatapuram, Visakhapatnam – 530  
 029, presently at Visakhapatnam, do hereby solemnly affirm and state as  
 under:

1. That I am the Authorized Signatory of LG Polymers India Pvt. Ltd.  
 (“Respondent”).
2. The present Affidavit is being filed to bring on record additional  
 documents, to reflect developments post the last hearing before this



*Dec 29/10/2020*  
**NOTARY  
 VISAKHAPATNAM  
 ANDHRA PRADESH  
 INDIA**

**P. Arun Kumar  
 Authorised Official  
 LG Polymers India Pvt. Ltd.  
 R.R. Venkatapuram, Visakhapatnam-530029**

Hon'ble Tribunal and also to bring on record relevant orders from other proceedings concerning the applicant.

3. The Affidavit is without prejudice to the rights and contention of the Respondent before the Hon'ble Supreme Court in Civil Appeal No. 2816 of 2020 and Civil Appeal No. 2665 of 2020 arising from the orders passed by this Hon'ble Tribunal. It is submitted that the Respondent has in the proceedings before the Hon'ble Supreme Court challenged inter alia the jurisdiction of this Hon'ble Tribunal to initiate suo moto proceedings. Nothing stated in the present Affidavit ought to be treated as a waiver of any of the rights and contentions of the Respondent.
4. It is submitted that some of the documents being filed along with the present Affidavit are already a part of the records in the present proceedings.
5. It is submitted that the present Affidavit is being filed for the convenience of this Hon'ble Court to ensure that all the documents are available to it during the virtual hearing at one consolidated place.



*PP-29/10/2020*  
**NOTARY**  
**VISAKHAPATNAM**  
**ANDHRA PRADESH**  
**INDIA**

*[Signature]*  
**P. Arun Kumar**  
**Authorised Official**  
**LG Polymers India Pvt. Ltd.**  
**R.R.Venkatapuram, Visakhapatnam-530029**

6. That in view of the above, the Respondent seeks the leave of this Hon'ble Court to place on record the following documents:
- (i) A true copy of the Civil Appeal No. 2816 filed by the Respondent before the Hon'ble Supreme Court (without annexures) is annexed herewith and marked as ANNEXURE "A"
  - (ii) A true copy of the Special Leave Petition (Civil) No. 10117-10119 of 2020 filed by the Respondent before the Hon'ble Supreme Court (without annexures) is annexed herewith and marked as ANNEXURE "B"
  - (iii) A true copy of the Civil Appeal No. 2665 of 2020 filed by the Respondent before the Hon'ble Supreme Court (without annexures) is annexed herewith and marked as ANNEXURE "C"
  - (iv) A true copy of the order dated 07.05.2020 passed by the High Court of Andhra Pradesh High in Suo Moto WP (PIL) No. 112 of 2020 is annexed herewith and marked as ANNEXURE "D"
  - (v) A true copy of the order dated 08.05.2020 passed by the National Green Tribunal, Principal Bench, New Delhi in



*AYC 29/10/2020*  
**NOTARY**  
**VISAKHAPATNAM**  
**ANDHRA PRADESH**  
**INDIA**

  
**P. Arun Kumar**  
**Authorised Official**  
**LG Polymers India Pvt. Ltd.**  
**R.R.Venkatapuram, Visakhapatnam-530029**

OA No. 73 of 2020 is annexed herewith and marked as **ANNEXURE "E"**

- (vi) A true copy of the order dated 19.05.2020 passed by the Hon'ble Supreme Court in CA (D) No 11327 of 2020 is annexed herewith and marked as **ANNEXURE "F"**
- (vii) A true copy of the order dated 22.05.2020 passed by the Andhra Pradesh High Court in WP (PIL) No. 112, WP (PIL) No. 117 of 2020 and WP (PIL) No. 119 of 2020 is annexed herewith and marked as **ANNEXURE "G"**
- (viii) A true copy of the order dated 26.05.2020 passed by the Hon'ble Supreme Court in SLP (C) (D) No. 11636 of 2020 is annexed herewith and marked as **ANNEXURE "H"**
- (ix) A true copy of the Order dated 29.05.2020 passed by the Andhra Pradesh High Court in WP (PIL) Nos 112, WP (PIL) No. 117 of 2020 and WP (PIL) No. 119 of 2020 is annexed herewith and marked as **ANNEXURE "I"**
- (x) A true copy of the order dated 01.06.2020 passed by the National Green Tribunal, Principal Bench, New Delhi in OA No. 73 of 2020, RA No. 19 of 2020, OA No. 76 of 2020 and OA No. 80 of 2020 is annexed herewith and marked as **ANNEXURE "J"**
- (xi) A true copy of the order dated 15.06.2020 passed by the Hon'ble Supreme Court in CA (D) No 11327 of 2020 and



*15/06/2020*

**NOTARY  
VISAKHAPATNAM  
ANDHRA PRADESH  
INDIA**

*P. Arun Kumar*

**P. Arun Kumar  
Authorised Official  
LG Polymers India Pvt. Ltd.  
R.R.Venkatapuram, Visakhapatnam-530029**

SLP (C) D No. 11636 of 2020 is annexed herewith and marked as **ANNEXURE "K"**

- (xii) A true copy of the order dated 17.06.2020 passed by the Hon'ble Supreme Court in WP (C) No. 527 of 2020 is annexed herewith and marked as **ANNEXURE "L"**
- (xiii) A copy of the order dated 26.06.2020 passed by the Hon'ble Supreme Court in Civil Appeal No. 2665 of 2020 is annexed herewith and marked as **ANNEXURE "M"**
- (xiv) A true copy of the order dated 08.10.2020 passed by the High Court of Andhra Pradesh in WP (PIL) No. 112 of 2020 is annexed herewith and marked as **ANNEXURE "N"**
- (xv) A true copy of the Notification G.O. Rt. No. 209 dated 22.03.2020 passed Health, Medical and Family Welfare Department (B2), Government of Andhra Pradesh is annexed herewith and marked as **ANNEXURE "O"**
- (xvi) A true copy of the letter dated 23.03.2020 bearing No. LGPI/03.2020 issued by LG Polymers India Pvt Ltd to the District Collector and Magistrate, Vishakhapatnam is annexed herewith and marked as **ANNEXURE "P"**
- (xvii) A true copy of the order dated 24.03.2020 issued by the Ministry of Home Affairs, Government of India along with enclosures is annexed herewith and marked as



*MC*  
*29/10/2020*

**NOTARY  
VISAKHAPATNAM  
ANDHRA PRADESH  
INDIA**

*[Signature]*

**P. Arun Kumar  
Authorised Official  
LG Polymers India Pvt. Ltd.  
R.R.Venkatapuram, Visakhapatnam-530029**

**ANNEXURE “Q”.**

- (xviii) A true copy of the letter dated 28.03.2020 bearing No. LGPI/03/2020 issued by LG Polymers India Pvt Ltd to the Joint Collector, Collector Office, Visakhapatnam is annexed herewith and marked as **ANNEXURE “R”**.
- (xix) A true copy of the order dated 01.05.2020 bearing No. 40-03/2020-DM-I(A) issued by the Ministry of Home Affairs, Government of India is annexed herewith and marked as **ANNEXURE “S”**.
- (xx) A true copy of the order dated 03.05.2020 issued by the Industries and Commerce (P&I) Department, Government of Andhra Pradesh is annexed herewith and marked as **ANNEXURE “T”**.
- (xxi) A true copy of the email dated 04.05.2020 from LG Polymers India Pvt Ltd to District Collector and Magistrate, Vishakhapatnam is annexed herewith and marked as **ANNEXURE “U”**.
- (xxii) A true copy of the Notification dated 01.07.2020 issued by the High Court of Andhra Pradesh at Amravati is annexed herewith and marked as **ANNEXURE “V”**.
- (xxiii) A true copy of the Notification dated 04.10.2020 issued by the High Court of Andhra Pradesh at Amravati is annexed herewith and marked as **ANNEXURE “W”**.



*APC 29/10/2020*

**NOTARY  
VISAKHAPATNAM  
ANDHRA PRADESH  
INDIA**

*[Signature]*

**P. Arun Kumar  
Authorised Official  
LG Polymers India Pvt. Ltd.  
R.R.Venkatapuram, Visakhapatnam-530029**

7. The Respondent relies and refers to the contents of the Affidavit dated 01.06.2020 filed before this Hon'ble Tribunal. The same are not being reiterated for the sake of brevity but ought to be read as a part and parcel of the present Affidavit. It is specifically brought to the notice of the Hon'ble Tribunal that the entry and exit of the officials of the Respondent to its premises has been restricted in terms of the order dated 22.05.2020 passed by the Hon'ble High Court of Andhra Pradesh in WP (PIL) No. 112 of 2020. The order dated 22.05.2020, has been partially modified by the Hon'ble Supreme Court by its order dated 26.05.2020 in Special Leave Petition (Civil) No. 10117-10119 of 2020 and more recently by the order dated 08.10.2020 passed by the Hon'ble High Court in WP(PIL) No. 112 of 2020. It is submitted that the applications filed by the Respondent seeking the de-sealing of its premises and for unhindered access to it are still pending adjudication before the Hon'ble High Court.



**P. Arun Kumar**  
Authorised Official  
LG Polymers India Pvt. Ltd.  
R.R.Venkatapuram, Visakhapatnam-530029



*PK*  
*29/10/2020*  
**NOTARY**  
**VISAKHAPATNAM**  
**ANDHRA PRADESH**  
**INDIA**

8. The Respondent craves leave of this Hon'ble Tribunal to file a further additional and detailed Affidavit raising its contention and objections, if so required at a later stage.
9. It is stated that the facts stated in the Affidavit are true to the best of my knowledge as per the records of the case and the submissions made therein are based on legal advice received by me and believed to be true and correct.

P. Arun Kumar  
 Authorised Official  
 LG Polymers India Pvt. Ltd.  
 R.R.Venkatapuram, Visakhapatnam-530029



DEPONENT

**VERIFICATION:**

I, the Deponent above named, do hereby verify that the contents of foregoing affidavit are true and correct to my knowledge, no part of it is false and nothing material has been concealed therefrom.

Verified at Vishakhapatnam on this 29<sup>th</sup> day of October, 2020.



DEPONENT



GANTI SUBRAHMANYAM  
 ADVOCATE & NOTARY  
 45-35-26/1, Sri Sai Residency  
 Jagannadhapuram, Akkayyapalem  
 VISAKHAPATNAM -530 016



P. Arun Kumar  
 Authorised Official  
 LG Polymers India Pvt. Ltd.  
 R.R.Venkatapuram, Visakhapatnam-530029

NOTARY  
 VISAKHAPATNAM  
 ANDHRA PRADESH  
 INDIA

My Commission Expires  
 On 27-05-2024

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO. \_\_\_\_\_ OF 2020

[Under Section 22 of the National Green Tribunal Act, 2010]  
(Arising out of the Impugned Interim Order Dated 08.05.2020  
passed by the National Green Tribunal, Principal Bench, New  
Delhi, In Original Application No.73 Of 2020)

**IN THE MATTER OF:-**

LG POLYMERS INDIA PVT. LTD. ... APPELLANT  
VERSUS

ANDHRA PRADESH POLLUTION  
CONTROL BOARD & ORS. ...RESPONDENTS

with

**I.A. NO. \_\_\_\_ OF 2020:**

Application for exemption from filing certified copy of the  
impugned orders

with

**I.A. NO. \_\_\_\_ OF 2020:**

Application for ad-interim ex-parte stay

with

**I.A. NO. \_\_\_\_ OF 2020:**

Application for exemption from filing of duly notarized  
affidavits

with

**I.A. NO. \_\_\_\_ OF 2020:**

Application For Placing On Record Additional Documents In  
Annexure A-5 To Annexure A-13 And Facts  
And

**I.A. NO. \_\_\_\_ OF 2020:**

Application For Placing On Record Subsequent Facts And  
Documents

**PAPER – BOOK**

[FOR INDEX KINDLY SEE INSIDE]

**ADVOCATE FOR THE APPELLANT : Mr. SHARDUL S.**  
**SHROFF**

**SYNOPSIS AND LIST OF DATES**

- A. The present Civil Appeal is being filed by LG Polymers Pvt. Ltd. (“**the Appellant**”) under Section 22 of the National Green Tribunal Act, 2010 (“**the NGT Act**”) against the Impugned Interim Order dated 08.05.2020 (“**the Impugned Order**”) passed by the National Green Tribunal, Principal Bench, New Delhi (“**NGT**”) in Original Application No. 73 of 2020 (In Re: Gas Leak at LG Polymers Chemical Plant in RR Venkatapuram Village in Andhra Pradesh).
- B. The Appellant by way of the present appeal is seeking setting aside of the Impugned Order (in so far as the constitution and functioning of the committee that has been setup by the NGT) as also a direction from this Hon’ble Court to exercise its extraordinary powers to consolidate the various fact finding inquiries (as elaborated below), which have been constituted to examine the causation, extent of damage caused and remedial measures in relation to a gas leak at the plant of the Appellant.
- C. *Vide* the Impugned Order, the NGT, *suo moto*, commenced judicial proceedings based on two online press reports (published on [www.ndtv.com](http://www.ndtv.com) and

## C

www.indianexpress.com) (“**Press Reports**”) concerning a gas leak that took place on 07.05.2020 at the Appellant’s plant premise in RR Venkatapuram village, Vishakhapatnam (“**the Incident**”), and passed *inter alia*, the following directions—

- (a) Constituted a five-member committee for conducting a fact finding inquiry in relation to the Incident, (“**NGT Inquiry Committee**”), which was to report its findings to the NGT at the earliest; and
  - (b) Directed the Appellant to forthwith deposit an “initial” amount of INR 50 crores with the District Magistrate, Vishakhapatnam; (“**the Deposit**”).
- D. The Impugned Order is unsustainable in law as the NGT could not have initiated *suo moto* proceedings concerning the Incident based on the Press Reports alone. The settled law (as laid down by this Hon’ble Court in a catena of judgements) is that tribunals (like the NGT) have to exercise their jurisdiction only within the framework of the parent statute that provided for its establishment and constitution. Under the NGT Act, the NGT only has the power to decide on ‘civil cases’ or ‘disputes’ and is not empowered to initiate proceedings *suo moto* pursuant to an application by

**D**

any person (let alone based on press reports). In passing the impugned order, the NGT, acted beyond the scope of its powers, which is impermissible under law. This Hon'ble Court is already examining this question of law concerning the NGT's *suo moto* jurisdiction in Civil Appeal Nos. 12122 and 12123, Municipal Corporation Greater Mumbai v. Ankita Sinha & Anr. ("**the Ankita Sinha Case**"). In fact, for this reason, this Hon'ble Court has vide its orders dated 07.01.2019 and 05.08.2019 in the Ankita Sinha Case and in a subsequent Civil Appeal (Civil Appeal No. 4502 of 2019, Central Electricity Supply Utility v. Government of Orissa) respectively, stayed *suo moto* proceedings commenced by the NGT in those cases. Until these primary and fundamental questions of law concerning the NGT's *suo moto* jurisdiction are decided by this Hon'ble Court, the Impugned Order cannot be sustained and the NGT cannot be allowed to continue to exercise *suo moto* powers.

- E. The proceedings before the NGT were also held without any representation from the Appellant, even though the Impugned Order notes that the "affected parties have to be given the opportunity of being heard." The NGT (solely relying on the press reports) recorded a finding that there

**E**

appeared to be a “failure to comply” with the Manufacturing, Storage and Import of Hazardous Chemical Rules, 1989 and other statutory provisions. The NGT Act [Section 19(1) and 19(4)(i)] itself requires that the NGT exercises its powers in conformity with the principles of natural justice including when passing interim orders. The directions (if any) ought to have been issued only after providing an opportunity of hearing to the Appellant. The Impugned Order issued directions against the Appellant without providing any opportunity of hearing. It should, accordingly, be set aside.

- F. Without prejudice to its legal rights, being a responsible corporate citizen, the Appellant is participating in the relief and rehabilitation efforts arising out of the Incident. It is submitted that the Appellant has formed a task force to assist in remedial and rehabilitation measures in the villages, which have been affected by the gas leak which occurred on the morning of 07.05.2020. The Appellant has already undertaken upon itself the medical expenses of all families, which have been affected by the incident. In this regard the Appellant has tied up with prominent hospitals in

**F**

the area. Moreover, external contractors engaged by the Appellant are making arrangements to provide food to the displaced families.

- G. Without prejudice to its submissions in the present appeal, the Appellant is also ready and willing to make the Deposit with R-2, proceeds of which can be inter-alia be utilized towards the relief and rehabilitation efforts the Appellant has been undertaking since the time of the Incident.
- H. The Appellant is also ready and willing to cooperate with any single inquiry / fact finding exercise to decipher the facts related to the occurrence of the Incident and consequences thereon and has in fact been extending cooperation to the various experts who have visited the plant site since the Incident.
- I. The Appellant submits that in addition to the NGT Inquiry Committee, several separate and parallel investigations / inquiries have also been set in motion in relation to the Incident:
- (i) Prior to the Impugned Order, the High Court of Andhra Pradesh (“**APHC**”) has also taken *suo*

**G**

*moto* cognizance (being Suo Moto WP (PIL) No. 112 of 2020) in relation to the Incident and vide Order dated 07.05.2020, directed the State government to constitute a committee for reporting steps taken in relation to the Incident to the APHC.

(ii) Presumably in terms of the order dated 07.05.2020 by the APHC, an inquiry in relation to the Incident was also commenced by a High Powered Committee set up by the Government of Andhra Pradesh vide G.O. No. 803 dated 08.05.2020.

(iii) Aside from the above, separate investigations / inquiries in relation to the Incident are being undertaken by a central government deputed expert committee, and a team of forensics experts from Andhra Forensics Laboratory. There are other inquiries that appear to have been initiated including by the National Human Rights Commission and by the Collector and District Magistrate, Visakhapatnam (“**Respondent No. 2**”).

J. A bare perusal of the terms of reference of the various investigation / inquiry committees shows that there is

**H**

significant overlap between the terms and objectives for which these committees have been set up. Each of these committees *inter alia* are examining the causation, extent of damage caused and remedial measures in relation to the Incident.

- K. The Appellant is taking every step possible to address concerns of and provide information to the various investigation authorities / expert bodies, as well as mobilizing its own technical teams to provide assistance in these parallel processes. However, the Appellant is gravely concerned that multiple parallel and overlapping investigations / inquiries may lead to not only conflicting assessments, findings, and conclusions, but also inhibit the efficiency, effectiveness, integrity and independence of each of these processes (especially in light of the unprecedented circumstances presented by the COVID-19 global pandemic). Fragmentation of expertise or knowledge across many departments, agencies and committees is a serious impediment to the conduct of a fair, proper and effective investigation or inquiry, and will only serve to stifle, delay and prejudice the entire fact finding process.

**I**

Therefore, the Appellant humbly submits that in addition to the infirmities in the Impugned Order, this is a fit case for this Hon'ble Court to exercise its extraordinary jurisdiction under Article 142 of the Constitution of India and pass necessary orders / directions, so that a consolidated and streamlined approach can be adopted in carrying out inquiries / investigations in relation to the Incident.

1961 LG Polymers India Private Limited (“**the Appellant**”) was established in 1961 as ‘Hindustan Polymers’ for manufacturing Polystyrene and its Co-polymers at Visakhapatnam, India. (“**the Plant**”) Subsequently the Appellant merged with Mc Dowell & Co. Ltd. of UB Group in 1978. The Appellant was renamed as LG Polymers India Private Limited (by which it is at present known) in July, 1997.

March, 2020 Following COVID19 outbreak, both the Central Government and the State Governments started imposing various restrictions on the operations of

manufacturing units like that of the Appellant through notifications under the Disaster Management Act 2005 and the Code of Criminal Procedure 1973.

22.03.2020 Respondent No. 2 issued a Curfew Order under Section 144 of the Code of Criminal Procedure 1973 (“Cr. PC”) *“prohibiting the gathering of five or more persons at one place including lock down in entire Visakhapatnam district...”*.

24.03.2020 The National Disaster Management Authority (“NDMA”) in exercise of the powers under section 6(2)(i) of the Disaster Management Act, 2005 (“DMA”) issued an Order directing the Ministries/ Departments of Government of India, and the State/Union Territory Governments and State/ Union Territory Authorities to take effective measures to prevent the spread of COVID-19 in the country. On the same day the National Executive Committee issued guidelines under Section

**K**

10(2)(1) of the DMA imposing a complete Lockdown through the country for a period of 21 days. In terms of the guidelines, all commercial, private and industrial establishments were to remain closed. All activities not specifically permitted under the guidelines were prohibited. (**“the Lockdown”**)

Appellant complied with the Government of India’s Lockdown and shut its Plant from 24 March, 2020. This was the first time in the history of the Plant that it was shutdown for what became six [6] weeks.

04.04.2020 NDMA directed the continuation of the Lockdown for a further period of 14 days.

01.05.2020 The Lockdown extended by a further period of two weeks by an Order issued on 01.05.2020. However, significant relaxations to the Lockdown were announced by governments for different zones, viz. red, orange and green zone.

**L**

Vishakhapatnam was categorized as an orange zone, which implied that all activities not specifically prohibited by the Government were allowed to recommence.

4.05.2020 In view of the various guidelines and notifications issued by the authorities and in the interests of its employees, customers and suppliers, the Appellant proposed to reopen the Plant after this unprecedented closure. In this regard an email communication was also issued by the Appellant to Respondent No. 2 on 04.05.2020.

07.05.2020 However, before the Plant could be reopened, on the morning of 07.05.2020 at around 3 AM a gas leak took place from the Plant premise. The leak occurred at the Styrene Monomer (SM) storage tank near the GPPS (General Purpose Poly Styrene) factory (“Incident”).

07.05.2020 At around 7 A.M. the same day, i.e 07.05.2020 as a consequence of the Incident a First Information

**M**

Report bearing No. 213/2020 (“the FIR”) on the basis of a complaint of one Mr. MV Subba Rao came to be registered against ‘LG Polymers, Management’ under Section 278, 284, 285, 377, 338, 304 – II of the Indian Penal Code 1860 (“IPC”).

07.05.2020 On 07.05.2020, as per a Press Release issued by the Hon’ble Prime Ministers Office it was communicated that a team from the Chemical, Biological, Radiological and Nuclear unit (“CBRN”) of National Disaster Response Force along with an expert team of National Environmental Engineering Research Institute (NEERI) would visit Vishakhapatnam “to support the State Government in the management of the crisis on the ground.” (“**the Central Government Committee**”)

07.05.2020 Soon thereafter, the Hon’ble High Court of Andhra Pradesh at Amaravati by an Order dated

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07.05.2020 in *Suo Moto* WP (PIL) No. 112 of 2020 took *suo moto* cognizance of the Incident (basis a report furnished by the Andhra Pradesh State Legal Services Authority) and directed the constitution of a committee of appropriate Officers. (“**the High Court Committee**”)

07.05.2020 The same day, i.e on 07.05.2020 the National Human Rights Commission (“**NHRC**”) took *suo moto* cognizance of the media reports of the incident and issued notice to the Chief Secretary, Government of Andhra Pradesh calling for a detailed report in the matter including the “status of the rescue operation, medical treatment provided to the people fallen sick and relief and rehabilitation provided by the state authorities to the affected families.” The NHRC also issued notice to the Director General of Police, Andhra Pradesh about the registration of FIRs in the matter and the status of investigations being conducted. The NHRC also requested the Secretary, Ministry

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of Corporate Affairs “to examine whether the norms laid down under relevant provisions of the law are being implemented at the particular industrial unit and to submit a report to the Commission.” (“**NHRC Directions**”)

07.05.2020 Simultaneously, on the same day, Respondent No. 2 issued an Order constituting an Internal Committee to verify whether the “procedure is being followed by the” Appellant. Respondent No. 2 directed the Committee to inspect the Plant of the Appellant immediately and keep the district administration informed.

07.05.2020 Later in the day on 07.05.2020, the Appellant issued a Press Statement expressing its deepest condolences to the deceased and their families. The Statement announced that the Appellants top priority was “to ensure medical help is provided to all those who have been affected by this incident.” The Statement also reported that the Appellant had mobilized its “technical teams to work with the

investigating authorities to arrive at the exact cause of the incident.”

08.05.2020 In response to certain media reports that there had been a second leak at the site, the Appellant issued a clarification dated 08.05.2020 to the effect that the situation at the plant was under control and the media reports of a second leak were incorrect.

08.05.2020 Meanwhile, the Government of Andhra Pradesh issued Order bearing No. G.O.RT. No. 449 dated 08.05.2020. Vide this order, the state government sanctioned and released an amount of Rs. 30 Crores in favour of the District Collector (Relief and Measures) Visakhapatnam from the Chief Ministers Relief Fund.

08.05.2020 Subsequently, the Government of Andhra Pradesh issued another Order bearing No. G.O. RT. No. 803 dated 08.05.2020 appointing a High Powered Committee “to probe into the cause behind the gas

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leak and to take stock of the recovery steps being taken in response to the incident.” This committee is to submit its final recommendation to the Government, within one month. (“**State High Powered Committee**”).

08.05.2020 On the same day, the NGT by the Impugned Interim Order dated 08.05.2020 took *suo moto* cognizance of the incident on the basis of certain media reports. The proceedings before the NGT were held without any representation from the Appellant, even though the Impugned Order notes that the “affected parties have to be given the opportunity of being heard.” The following directions were passed by way of the Impugned Order :--

- (a) A five-member committee is to be constituted for conducting a fact finding inquiry in relation to the Incident, (“**NGT Inquiry Committee**”) and the said committee is to commence inquiry and

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report its findings to the NGT at the earliest;  
and

(b) The Appellant is to forthwith deposit an  
“initial” amount of INR 50 crores with the  
District Magistrate, Vishakhapatnam; (“**the  
Deposit**”).

09.05.2020 Meanwhile, on 09.05.2020 , the Appellant issued a  
statement on the measures undertaken by it. The  
statement inter alia noted that a special task force  
“has been set up to help victims and families...”.  
The Appellant assured that it would actively  
“develop and promote mid-to-long term support  
programs that can contribute to the local  
communities.”

The Appellant is moving a separate application to  
bring on record facts and documents which took  
place after the passing of the Impugned Order.

10.05.2020 The Central Government Committee, was flown to  
Vishakhapatnam from New Delhi and Mumbai.  
The Committee visited the site of the Incident and

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interacted with the officials and various stakeholders. The Appellant fully cooperated with this investigation.

The Appellant is moving a separate application to bring on record facts and documents which took place after the passing of the Impugned Order.

11.05.2020 The State High Powered Committee issued a Press Note detailing the work carried out by it in the three days since its constitution. The Committee also requested all interested stakeholders to send their inputs to the Committee.

The Appellant is moving a separate application to bring on record facts and documents which took place after the passing of the Impugned Order.

14.05.2020 That being aggrieved by the Impugned Order (in so far as the constitution and functioning of the committee that has been setup by the NGT is concerned) the Appellant is preferring the present civil appeal.

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO. \_\_\_\_\_ OF 2020

(APPEAL UNDER SECTION 22 OF THE NATIONAL  
GREEN TRIBUNAL ACT 2010)

**[ARISING OUT OF THE IMPUGNED INTERIM  
ORDER DATED 08.05.2020 PASSED BY THE  
NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH,  
NEW DELHI, IN ORIGINAL APPLICATION NO.73 OF  
2020]**

**IN THE MATTER OF:**

**POSITION OF PARTIES**

<p><b>Before the Hon'ble NGT, Principal Bench, New Delhi</b></p>	<p><b>Before this Hon'ble Court</b></p>
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<p><b>1. LG POLYMERS INDIA PRIVATE LIMITED</b></p>	<p><b>Respondent      Appellant</b></p>
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A company incorporated under the Provisions of Companies Act, 1956, having its registered office at RR Venkatapuram, Vishakhapatnam,

Andhra Pradesh - 530029  
 Through its Authorised  
 Signatory

**VERSUS**

- |   |                   |   |
|---|-------------------|---|
| <p><b>1. ANDHRA PRADESH<br/>         POLLUTION CONTROL<br/>         BOARD</b></p> | <p>Respondent</p> | <p>Contesting<br/>         Respondent<br/>         No 1</p> |
|---|-------------------|---|

Statutory authority  
 exercising powers under the  
 Water (Prevention and  
 Control of Pollution) Act,  
 1974 and the Air (Prevention  
 and Control of Pollution)  
 Act, 1981 having its office at  
 D. No. 33-26-14 D/2, Near  
 Sunrise Hospital, Pushpa  
 Hotel Centre, Chalamalavari  
 Street, Kasturibaipet,  
 Vijayawada, Andhra Pradesh  
 520 010

Through its Chairman

- |  |                                |  |
|--|--------------------------------|--|
| <p><b>2. COLLECTOR<br/>         DISTRICT</b></p> | <p><b>&amp;</b> Respondent</p> | <p>Contesting<br/>         Respondent<br/>         No. 2</p> |
|--|--------------------------------|--|

**MAGISTRATE,**  
**VISHAKHAPATNAM**  
 Main Rd, Krishnagar,  
 Krishna Nagar, Maharani  
 Peta,  
 Visakhapatnam,  
 Andhra Pradesh 530002

- |  |                   |   |
|--|-------------------|---|
| <p><b>3. CENTRAL POLLUTION CONTROL BOARD</b><br/>         Statutory authority exercising powers under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 having its office at Parivesh Bhawan, East Arjun Nagar, Delhi – 110032.<br/>         Through its Chairman.</p> | <p>Respondent</p> | <p>Contesting Respondent<br/>         No. 3</p> |
| <p><b>4. UNION OF INDIA</b><br/>         Ministry of Environment, Forest and Climate Change<br/>         Government of India<br/>         Through Secretary,<br/>         Indira Paryavaran Bhavan<br/>         Jorbagh Road,</p>  | <p>Respondent</p> | <p>Contesting Respondent<br/>         No. 4</p> |

New Delhi - 110003

**APPEAL UNDER SECTION 22 OF THE NATIONAL  
GREEN TRIBUNAL ACT, 2010 AGAINST THE  
IMPUGNED INTERIM ORDER DATED 08.05.2020  
PASSED BY THE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI IN ORIGINAL  
APPLICATION NO. 73 OF 2020**

TO

THE HON'BLE CHIEF JUSTICE OF INDIA  
AND HIS OTHER COMPANION JUDGES OF  
THE HON'BLE SUPREME COURT OF INDIA

THE HUMBLE APPEAL OF  
THE APPELLANT ABOVE  
NAMED

**MOST RESPECTFULLY SHEWETH:**

1. The Appellant is preferring the present statutory appeal under Section 22 of the National Green Tribunal Act, 2010 ('NGT Act') against the Impugned Order dated 08.05.2020 passed by the National Green Tribunal, Principal Bench at New Delhi in the case of In Re: Gas Leak at LG Polymers Chemical Plant in RR Venkatapuram Village in Andhra Pradesh being the Original Application No. 73 of 2020, whereby NGT took *suo*

*moto* cognizance of the Incident and inter alia issued the following directions (“**NGT Directions**”):

- (a) A five-member committee is to be constituted for conducting a fact finding inquiry in relation to the Incident, (“**NGT Inquiry Committee**”) and the said committee is to commence inquiry and report its findings to the NGT at the earliest; and
- (b) The Appellant is to forthwith deposit an initial amount of INR 50 crores with the District Magistrate, Vishakhapatnam; (“**the Deposit**”).

Vide this appeal, the Appellant is challenging the Impugned Order in so far as the constitution and functioning of the committee that has been setup by the NGT is concerned.

2. **QUESTIONS OF LAW:**

That the following substantial questions of law arise in the instant Appeal for the kind consideration of this Hon’ble Court:-

- A. Whether the NGT has the power to *suo moto* initiate proceedings against a person and issue adverse orders against such person?
- B. Whether the directions issued by the NGT are valid, sustainable in law and are in accordance with the principles of natural justice?

- C. Whether NGT could issue an adverse order against the Appellant without providing any opportunity for hearing to the Appellant?
- D. Whether the Impugned Order discloses any reasons or basis for the NGT Directions?
- E. Whether the NGT Direction in setting up and mandating the NGT Inquiry Committee to submit a report causes grave prejudice and injustice to the Appellant in view of other inquiries tasked with the same mandate?
- F. Whether the NGT Direction to set up the NGT Inquiry Committee when the Government of Andhra Pradesh had already constituted a High Power Committee with near identical terms of reference causes grave prejudice and injustice to the Appellant specially with the multiple committees already having been appointed?
- G. Whether setting of multiple committees with near identical terms of reference secure ends of justice and is in the interest of justice, equity and fairness?

3. **BRIEF FACTS**

- a. The Appellant – LG Polymers India Private Limited was established in 1961 as ‘Hindustan Polymers’ for

manufacturing Polystyrene and its Co-polymers at Visakhapatnam, India. The Appellant merged with Mc Dowell & Co. Ltd. of UB Group in 1978. The Appellant was renamed as LG Polymers India Private Limited in July, 1997. Presently the Appellant is one of the leading manufacturers of Polystyrene and Expandable Polystyrene in India.

- b. On 16.11.2001 the Andhra Pradesh Pollution Control Board (APPCB) issued the Consent to Establish in favour of the Appellant for setting up the manufacturing unit at Vishakhapatnam, Andhra Pradesh
- c. On or about 08.05.2002 the APPCB issued a Consent to Operate in favour of the Appellant for manufacturing of 278.3 TDP (Polystyrene (233.3 TDP) and Expandable Polystyrene (45 TDP)) at the unit. Subsequent Consent(s) to Operate with additional capacity of Polystyrene and Expandable Polystyrene came to be issued on 25.03.2004, 04.01.2009, 13.04.2009, 06.05.2014, 19.04.2015. More recently on 19.01.2017, the APSEB issued a Consent to Operate in favour of Appellant for manufacturing of 415 TDP (Polystyrene (313 TDP) and Expandable Polystyrene (102 TDP)). The consent was valid till 31.12.2012.
- d. On 20.06.2018 the APSEB issued a Consent to Operate in favour of the Appellant for manufacturing of 36.67 TDP of Engineering Plastics (which is a downstream product).

- e. Soon after the declaration of the COVID19 outbreak as a pandemic by the World Health Organization (WHO) in early March 2020, both the Central Government and the State Governments imposed various restrictions on the operations of manufacturing units like that of the Appellant through notifications under the Disaster Management Act 2005 and the Code of Criminal Procedure 1973.
  
- f. In this regard, on 22.03.2020 Respondent No. 2 issued a Curfew Order under Section 144 of the Code of Criminal Procedure 1973 (“Cr. PC”) *“prohibiting the gathering of five or more persons at one place including lock down in entire Visakhapatnam district...”*.
  
- g. Similarly, the National Disaster Management Authority (‘NDMA’) in exercise of the powers under section 6(2)(i) of the DMA issued an Order dated 24.03.2020, directing the Ministries/ Departments of Government of India, and the State/Union Territory Governments and State/ Union Territory Authorities to take effective measures to prevent the spread of COVID-19 in the country. On the same day the National Executive Committee issued guidelines under Section 10(2)(1) of the DMA imposing a complete Lockdown through the country for a period of 21 days. In terms of the guidelines, all commercial, private and industrial establishments were to remain closed. All activities not specifically permitted under the guidelines were prohibited.

- h. In view of the restrictions on carrying out manufacturing operations, the Appellant closed down the unit from 24.03.2020. All Standard Operating Procedures for closure of the unit were duly followed. It was for the first time in the history of the Plant that it came to be closed, for what ultimately became six (6) weeks.
- i. Subsequently, by an Order dated 14.04.2020, the NDMA directed the continuation of the Lockdown for a further period of 14 days. This period was further extended by a further period of two weeks by an Order issued on 01.05.2020. However, significant relaxations to the Lockdown were announced by the government for different zones, viz. red, orange and green zone. Vishakhapatnam was categorized as an orange zone, which implied that all activities not specifically prohibited by the Government were allowed to recommence.
- j. In view of the various guidelines and notifications issued by the authorities and in the interests of its employees, customers and suppliers, the Appellant proposed to reopen the Plant after this unprecedented closure. An email communication in this regard had been duly issued to Respondent No. 2 on 04.05.2020.
- k. However, before the reopening, on the morning of 07.05.2020 at around 3 AM a gas leak occurred at the unit of the Appellant located at Vishakhapatnam. The leak occurred at the Styrene

Monomer (SM) storage tank near the GPPS (General Purpose Poly Styrene) factory (“Incident”).

1. At around 7 A.M. the same day, as a consequence of the Incident a First Information Report bearing No. 213/2020 (“the FIR”) on the basis of a complaint of one Mr. MV Subba Rao came to be registered against ‘LG Polymers, Management’ under Section 278, 284, 285, 377, 338, 304 – II of the Indian Penal Code 1860 (“IPC”).
  
- m. On 07.05.2020, as per a press release issued by the Hon’ble Prime Minister’s Office it was communicated that a team from the Chemical, Biological, Radiological and Nuclear unit (“CBRN”) of National Disaster Response Force along with an expert team of National Environmental Engineering Research Institute (NEERI) would visit Vishakhapatnam “to support the State Government in the management of the crisis on the ground.”
  
- n. Soon thereafter, the High Court of Andhra Pradesh at Amaravati by an Order dated 07.05.2020 in *Suo Moto* WP (PIL) No. 112 of 2020 took *suo moto* cognizance of the Incident (basis a report furnished by the Andhra Pradesh State Legal Services Authority) and directed the constitution of a committee of appropriate Officers. The Order recorded that:

“The State Government shall ensure to appoint a Committee of appropriate Officers not below the rank of Principal Secretaries to monitor the things

and submit the compliance in this regard within a week.

It is further made clear that the entire action of Disaster Management Authority is required to be supervised by the Chief Secretary of the State under the provisions of the Rules by which a Committee is already constituted to supervise the functioning of the Senior Officers.”

- o. The same day i.e. 07.05.2020, the National Human Rights Commission took *suo moto* cognizance of the media reports of the incident. Though recognising that “as of now, there are no reports regarding human error or negligence”, notice was issued to the Chief Secretary, Government of Andhra Pradesh calling for a detailed report in the matter including the “status of the rescue operation, medical treatment provided to the people fallen sick and relief and rehabilitation provided by the state authorities to the affected families.” The NHRC also issued notice to the Director General of Police, Andhra Pradesh about the registration of FIRs in the matter and the status of investigations being conducted. The NHRC also requested the Secretary, Ministry of Corporate Affairs “to examine whether the norms laid down under relevant provisions of the law are being implemented at the particular industrial unit and to submit a report to the Commission.”
- p. Simultaneously, on the same day, Respondent No. 2 issued an Order constituting an Internal Committee to verify whether the

“procedure is being followed by the” Appellant. Respondent No. 2 directed the Committee to inspect the Plant of the Appellant immediately and keep the district administration informed.

- q. Later in the day on 07.05.2020, the Appellant issued a press statement expressing its deepest condolences to the deceased and their families. The Statement announced that the Appellants top priority was “to ensure medical help is provided to all those who have been affected by this incident.” The Statement also reported that the Appellant had mobilized its “technical teams to work with the investigating authorities to arrive at the exact cause of the incident.”
- r. On 08.05.2020, in response to certain media reports that there had been a second leak at the site, the Appellant issued a Clarification dated 08.05.2020 clarifying that the situation at the plant was under control and the media reports of a second leak were incorrect.
- s. Meanwhile, the Government of Andhra Pradesh issued Order bearing No. G.O.RT. No. 449 dated 08.05.2020. Vide this order, the state government sanctioned and released an amount of Rs. 30 Crores in favour of the District Collector (Relief and Measures) Visakhapatnam from the Chief Ministers Relief Fund.
- t. Subsequently, the Government of Andhra Pradesh issued another Order bearing No. G.O. RT. No. 803 dated 08.05.2020

appointing a High Powered Committee “to probe into the cause behind the gas leak and to take stock of the recovery steps being taken in response to the incident.” The terms of reference of the High Powered Committee, which is to submit its final recommendation to the Government, within one month, included the following:

“a. The Committee shall enquire on reasons for the leakage, including verifying if the Company adhered to all safety protocols;

...

c. The Committee shall recommend proposed action to be taken against the Unit by the Government, in case any negligence on the vapor leak incident in Visakhapatnam;”

- u. On 08.05.2020, the NGT took *suo moto* cognizance of the incident on basis of two online press reports (published on [www.ndtv.com](http://www.ndtv.com) and [www.indianexpress.com](http://www.indianexpress.com)) . The proceedings before the NGT were held without any representation from the Appellant, even though the Impugned Order does go on to note that the “affected parties have to be given the opportunity of being heard.” The NGT (solely relying on the press reports) in its the Impugned Order recorded that there appeared to be a “failure to comply” with the Manufacturing, Storage and Import of Hazardous Chemical Rules, 1989 and other statutory provisions. The NGT also directed the constitution of a six (6) member committee to report on the following:

“a. The sequence of events;

- b. Causes of failure and persons and authorities responsible therefor;
  - c. Extent of damage to life, human and non-human; public health; and environment – including, water, soil, air;
  - d. Steps to be taken for compensation of victims and restitution of the damaged property and environment, and the cost involved;
  - e. Remedial measures to prevent recurrence;
  - f. Any other incidental or allied issues found relevant.”
- v. The NGT further directed the Appellant to forthwith deposit an initial amount of Rs. 50 Crores with District Magistrate, Vishakhapatnam. The Impugned Order noted that:
- “6. Having regard to the *prima facie* material regarding the extent of damage to life, public health and environment, we direct LG Polymers India Pvt., Limited to forthwith deposit an initial amount of Rs. 50 Crore, with the District Magistrate, Vishakhapatnam, which will abide by further orders of this Tribunal. The amount is being fixed having regard to the financial worth of the company and the extent of the damage caused.”

A true copy of the online press report titled ‘Visakhapatnam Gas Leak Live updates: Death toll at 11; Centre asks chemical firms to exercise caution when reopening plants’

dated 08.05.2020 published online on Indian Express is annexed herewith and marked as **ANNEXURE A-1** (At page 50 to 78 ).

A true copy of the online press report titled '11 Dead, 1,000 Reportedly Sick After Gas Leak At Plant In Vizag' dated 08.05.2020 published on NDTV is annexed herewith and marked as **ANNEXURE A-2** (At page 79 to 86 ).

- w. It is submitted that the Impugned Order is without jurisdiction in as much as the NGT Act does not empower the NGT to take up suo moto proceedings. It is stated that this Hon'ble Court is in two pending matters arising from similar suo moto proceedings initiated by the NGT examining the power of the NGT under the NGT Act to initiate such proceedings. In fact this Hon'ble Court has by its Order dated 07.01.2019 in Civil Appeal No. 12122-23 of 2018 and Order dated 05.08.2019 in Civil Appeal No. 5902 of 2019 directed the stay of proceedings suo moto proceedings initiated by the NGT in those matters.

A copy of the Order dated 07.01.2019 in Civil Appeal No. 12122-23 of 2018 passed by this Hon'ble Court is annexed herewith and marked as **ANNEXURE A-3** (At page 87 to 87 ).

A copy of the Order dated 05.08.2019 in Civil Appeal No. 5902 of 2019 passed by this Hon'ble Court is annexed herewith and marked as **ANNEXURE A-4** (At page 88 to 88 ).

- x. The present Civil Appeal has been filed by the Appellant against the Impugned Order because the direction passed by the Hon'ble NGT prejudicially affects the rights of the Appellant.
- y. Meanwhile, on 09.05.2020 the Appellant issued a Statement on the Measures undertaken by it. The statement inter-alia noted that a special task force "has been set up to help victims and families...". The Appellant assured that it would actively "develop and promote mid-to-long term support programs that can contribute to the local communities."
- z. On 10.05.2020 Central Government Committee, was flown to Vishakhapatnam by a special aircraft from New Delhi and Mumbai. The Committee visited the site of the Incident and interacted with the officials and various stakeholders. The Appellant fully cooperated in this investigation.
- aa. On 11.05.2020, the High Powered Committee constituted by the Government of Andhra Pradesh issued a Press Note detailing the work carried out by it in the three days since its constitution. The Committee also requested all interested stakeholders to send their inputs to the Committee.
- bb. That members of the various Committees have been regularly visiting the Plant of the Appellant since the incident. The Appellant has fully cooperated with all the investigations by all the authorities.

- cc. To the extent the present Civil Appeal raises facts after the passing of the Impugned Order the Appellant is filing a separate application seeking leave to raise those facts.
4. That being aggrieved from the aforesaid Impugned Interim Order dated 08.05.2020 passed by the National Green Tribunal, Principal Bench, New Delhi (“the NGT”) in Original Application No. 73 of 2020 ‘In Re: Gas Leak at LG Polymers Chemical Plant in PR Venkatapuram Village Visakhapatnam in Andhra Pradesh’, the Appellant is preferring the present appeal on the following grounds amongst others.

### **GROUND**

- A. BECAUSE the Impugned Order is unsustainable in law and the NGT Directions issued vide the Impugned Order ought to be set aside in the interest of justice and equity.
- B. BECAUSE the NGT erroneously assumed *suo moto* jurisdiction in the proceedings leading up to the Impugned Order and thus the Impugned Order is a nullity in the eyes of law.
- C. BECAUSE the NGT Act, as well as the applicable rules framed thereunder (specifically the National Green Tribunal (Practice and Procedure) Rules, 2011 (‘NGT Rules’), squarely regulate the powers and functions of the NGT and, in terms of the applicable statutory framework, the NGT does not have the power to initiate *suo moto*

proceedings against any party. In terms of the NGT Act, the NGT only has the power to decide on 'civil cases' or 'disputes' pursuant to an application by any person and as such, the NGT does not have the power to *suo moto* initiate any proceedings. In the present case, the NGT initiated the proceedings against the Appellant *suo moto* on the basis of some newspaper reports, thereby acting beyond the scope of its functions and powers under the NGT Act and the rules framed thereunder. Therefore, the *suo moto* exercise of jurisdiction by the NGT is not sustainable in law and the Impugned Order passed by the NGT must be set aside.

- D. BECAUSE the issue whether the NGT has the power to initiate *suo moto* proceedings is presently pending before this Hon'ble Court in the matter of *Municipal Corporation Greater Mumbai vs. Ankita Sinha & Anr*, Civil Appeal Nos.12122-12123 of 2018 and in the said proceedings, this Hon'ble Court, vide an order dated 07.01.2019, stayed the *suo moto* proceedings initiated by the NGT. Subsequently, in another matter being *Central Electricity Supply Utility of Odisha v Government of India*, Civil Appeal No. 5902 of 2019, this Hon'ble Court, vide its order dated 05.08.2019 issued similar orders staying the *suo moto* proceedings initiated by the NGT. In view of the above, the NGT could not have exercised its jurisdiction to *suo moto* initiate any proceedings against any person and consequently, this Hon'ble Court ought to set aside or stay the operation of the Impugned Order till the time this Hon'ble Court settles the issue on exercise of *suo moto* jurisdiction by the NGT.

- E. BECAUSE the Impugned Order is contrary to the provisions of the NGT Act as well as the principles of natural justice. The NGT Act requires that the NGT exercises its powers in conformity with the principles of natural justice, but in the present case, the NGT issued the Impugned Directions without providing any opportunity of hearing to the Appellant. Any directions could have only been issued by the NGT after providing an opportunity of hearing to the Appellant. Impugned Order must be set aside.
- F. BECAUSE the Impugned Order has been passed by the NGT without any basis and the Impugned Order does not disclose any reasons in support of the NGT Directions.
- G. BECAUSE the NGT Directions setting up the NGT Inquiry Committee is duplicative of other investigations and causes grave prejudice and injustice to the Appellant.
- H. BECAUSE the NGT Inquiry Committee has been set up by the NGT with inter alia the following terms of reference to be included in the report proposed to be submitted by such committee:
- i. *The sequence of events;*
  - ii. *Causes of failure and persons and authorities responsible therefor;*
  - iii. *Extent of damage to life, human and non-human; public health; and environment – including, water, soil, air;*

- iv. *Steps to be taken for compensation of victims and restitution of the damaged property and environment, and the cost involved;*
- v. *Remedial measures to prevent recurrence;*
- vi. *Any other incidental or allied issues found relevant”*

The Government of Andhra Pradesh has separately set up another High Power Committee vide a circular bearing reference no. G.O. RT No. 803 of 2020 on 08.05.2020 with the following terms of reference:

- i. *The committee shall enquire on reasons for the leakage, including verifying if the company had adhered to all safety protocols;*
- ii. *The committee shall study if there are long-term effects of the gas leakage on the surrounding villages, if any;*
- iii. *The committee shall recommend proposed action to be taken against the unit by the Government, in case of any negligence on the vapour leak incident in Visakhapatnam;*
- iv. *The committee will suggest measures to be taken by the industry units, including safety audits, to prevent such mishaps in future;*
- v. *In case there are any observations and suggestions for all similar industrial plants, those too shall be communicated in the report”.*

Separately, reference the order dated 07.05.2020 passed by the High Court of Andhra Pradesh (‘High Court’) in the Suo Moto WP (PIL) No. 112 of 2020, the High Court directed the GoAP to “..ensure to appoint a committee of

*appropriate officers not below the rank of principal secretaries to monitor the things and submit the compliance... ”* and that “*...the entire action of Disaster Management Authority is required to be supervised by the chief secretary of the State under the provisions of the Rules by which a committee is already constituted to supervise the functioning of the senior officers...*”. Presumably, the High Power Committee has been set up pursuant to the directions issued by the High Court of Andhra Pradesh. From the press release dated 11.05.2020 issued by the High Power Committee the Appellant understands that (i) the High Power Committee has commenced its work and had detailed discussions with the District Collector, Visakhapatnam as well as the Chief Secretary and all senior officers; (ii) that the High Power Committee held discussions with Director, Indian Institute of Petroleum, Professor of Organic Chemistry (Retd.), Styrene expert from Mumbai (deputed by NDMA) and discussed the causes for leakage of gas and implications; (iii) the High Power Committee examined the factory (including the storage tank premises) with the help of experts and held discussions with officials of the Appellant covering all aspects of the incident and subsequent events and that the (iv) the High Power Committee held discussions with all the relevant departments, the teams of the NDRF, NEERI and health teams involved in relief operations. Additionally, a committee comprising Dr. Anjan Ray, Director, Indian Institute of Petroleum, Dehradun and Dr. Shantanu Geete, styrene expert from Supreme Industries Ltd, Mumbai

deputed by the Central Government to inquire into the causes for the leak (“**Central Government Committee**’) visited the Appellants factory on 10.05.2020.

- I. BECAUSE from a bare perusal of the terms of reference of the NGT Inquiry Committee as well as the High Power Committee, the press releases issued by the High Power Committee, the news reports in respect of the Central Government Committee, and the Order issued by Respondent No. 2 with respect to the Internal Committee there is significant overlap on the objectives as well as scope of inquiry of various committees and as such, grave prejudice and injustice shall be caused to the Appellant inasmuch as the separate yet similar investigations with near identical terms of reference may jeopardize the process of fact finding.
  
- J. BECAUSE separate yet similar investigations with near identical terms of reference shall not be in the interest of justice and shall cause grave prejudice to the Appellant for the following reasons:
  - i. At the outset, the commencement of investigations by various committees in parallel may severely affect the ability of the Appellant to fully and earnestly cooperate with each committee and assist such committee in the fact finding exercise at the same time (especially in light of the global COVID-19 pandemic);

- ii. While the Appellant is willing in earnest to co-operate with parallel investigations by various committees, grave prejudice shall be caused to the Appellant should it fail to promptly co-operate with any committee in a particular investigation owing to Appellant's pre-occupation in parallel investigation by another committee.
- iii. Separately, parallel investigations on near identical issues or terms of reference may result in contradictory/conflicting assessments, findings, observations or conclusions, and consequently, the integrity, independence and accuracy of each such investigation shall be threatened.
- iv. Any such divergence or contradiction shall defeat the entire purpose of the fact finding exercises or investigations and for an effective culmination or closure of the parallel investigations.
- v. Any divergence or difference in the observations or findings amongst the reports of various committees will significantly affect the judicial proceedings presently pending before the NGT and High Court of Andhra Pradesh and any delay in the judicial proceedings resulting from the divergent or contradictory findings or observations in parallel investigations will cause grave prejudice to the Appellant and it shall adversely affect the earnest efforts of the Appellant to seek closure or completion of such judicial proceedings.

- vi. Parallel investigations and/or the consequent delays caused by such investigations may severely affect the Appellant's ability to provide immediate and necessary aid, support and assistance in the rehabilitation, restoration and other relief programs locally.
  - K. BECAUSE parallel investigations on identical issues or terms of reference may fail to secure ends of justice and to complete the proceedings in a time bound manner. In particular, such inconclusive or contradictory investigations may not be in the interest of the public and/or the Appellant.
  - L. BECAUSE fragmentation of expertise or knowledge across many departments, agencies and committees is a serious impediment to the conduct of a fair, proper and effective investigation or inquiry and this Hon'ble Court in the interest of justice, equity and fairness and to secure the ends of justice ought to exercise its extraordinary jurisdiction and pass necessary orders/directions, directing one consolidated and streamlined inquiry/ investigation be made in relation to the Incident.
5. That the Appellant has not filed any other appeal/petition before this Hon'ble Court against the Impugned Order dated 08.05.2020 passed by the National Green Tribunal, Principal Bench at New Delhi in the case of In Re: Gas Leak at LG Polymers Chemical Plant in RR Venkatapuram Village in Andhra Pradesh being the Original Application No. 73 of 2020.

6. That the Annexures filed with the present appeal are true copies of their respective originals and formed part of the records of the NGT.

**PRAYER**

It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to:-

- i) admit and allow the present Appeal and set aside the Impugned Interim Order dated 08.05.2020 passed by the National Green Tribunal, Principal Bench at New Delhi in Original Application No. 73 of 2020; and
- ii) Pass such other Order or Orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

AND FOR THIS ACT OF KINDNESS THE HUMBLE APPELLANT ABOVENAMED SHALL AS IN DUTY BOUND EVER PRAY.

FILED THROUGH:

SHARDUL  
SURESH SHROFF

Digitally signed by SHARDUL  
SURESH SHROFF  
Date: 2020.05.14 12:50:59  
+05'30'

(SHARDUL S. SHROFF)

ADVOCATE FOR THE APPELLANT

DRAWN ON: 13.05.2020

FILED ON: 14.05.2020

NEW DELHI

**TRUE COPY**

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
SPECIAL LEAVE PETITION (CIVIL) NO. \_\_\_\_\_ OF  
2020

[Arising out of Impugned Order dated 22.05.2020 passed in  
WP(PIL) No. 112 of 2020, WP(PIL) No. 117 of 2020, and  
WP(PIL) No. 119 of 2020 passed by the High Court of  
Andhra Pradesh at Amaravathi]

**IN THE MATTER OF:-**

LG POLYMERS INDIA PVT. LTD. ... PETITIONER  
VERSUS

STATE OF ANDHRA  
PRADESH & ORS ETC. ...RESPONDENTS

with

**I.A. NO. \_\_\_\_ OF 2020:**

Application for exemption from filing certified copy of the  
impugned orders

with

**I.A. NO. \_\_\_\_ OF 2020:**

Application for exemption from filing of duly notarized  
affidavits

with

**I.A. NO. \_\_\_\_ OF 2020:**

Application for Placing On Record Additional Documents in  
Annexure P- 11 to Annexure P-18 And Facts  
And

**I.A. NO. \_\_\_\_ OF 2020:**

Application for Placing On Record Subsequent Facts And  
Documents

**VOLUME 1**

**[Pages A to 200 ]**

**PAPER – BOOK**

[FOR INDEX KINDLY SEE INSIDE]

**ADVOCATE FOR THE PETITIONER: MR. SHARDUL S.**  
**SHROFF**

**B****SYNOPSIS AND LIST OF DATES**

- A. This Petition under Article 136 of the Constitution of India, 1950 is seeking Special Leave to Appeal against the common impugned interim order dated 22.05.2019 passed by the High Court of Andhra Pradesh at Amravati in Suo Moto WP (PIL) No. 112 of 2020, WP (PIL) No. 117 of 2020 and WP (PIL) No. 119 of 2020 (“the Impugned Order”). These proceedings concern a suo moto proceeding initiated by the High Court and two other public interest petitions that have been filed regarding an incident of gas leak at the Petitioner’s plant in Vishakapatnam.
- B. Post a hearing conducted over videoconference (on account of the COVID-19 lockdown), the High Court vide the Impugned Order has inter alia directed that:
- (a) The premises of the Petitioner be completely seized and no person, including the directors of the Petitioner be permitted to enter the premises of the Petitioner.
  - (b) The committees investigating the styrene gas leak incident that occurred at one of the storage tanks on the premises of the Petitioner on the early hours of 07.05.2020 (“the Incident”) were permitted to inspect the premises subject to a log being maintained at the gate of the Petitioner’s premises regarding the said inspection;
  - (c) All the assets (movable or immovable), fixtures, machinery and contents of the Petitioner were directed not to be shifted without the leave of the High Court;
  - (d) Separately, the High Court sought certain explanations on some issues, including the issues in relation to the cause of the Incident and the High Court granted liberty to the Central Government and the State Government to ‘apprise’ the High Court as to which amongst the various Committees investigating the Incident “*shall fulfill the purpose to answer all the quests in issue*”.

## C

- C. At the outset, the Petitioner submits that the Impugned Order has been passed without giving any opportunity to the Petitioner to respond to the issues, which form the basis of the Impugned Order. The Petitioner did not get a chance to address arguments at the hearing on these issues nor did the Petitioner get a chance to submit a response in writing. Moreover, no reason whatsoever has been given in the Impugned Order to pass the impugned directions.
- D. It is submitted that the issue of multiple enquiry committees simultaneously investigating the gas leak incident is already subject matter of the Civil Appeal (Diary) No. 13327 of 2020 pending before this Hon'ble Court. The said proceedings before this Hon'ble Court have been filed by the Petitioner against the order dated 08.05.2020 in O.A. No. 73 of 2020 passed by the National Green Tribunal ("NGT") directing the constitution of a six member committee to Investigate the Gas Leak Incident. The said proceedings before this Hon'ble Court are next listed on 08.06.2020. Despite being informed that this issue is pending before this Hon'ble Court, the High Court has called upon the Central Government and State Government to in effect decide, which committee shall answer all the questions in issue, which would extend to the committee appointed by the National Green Tribunal. This direction would render the proceedings filed by the Petitioner, which are pending before this Hon'ble Court nugatory and infructuous.
- E. Vide, the Impugned Order, the High Court has called for specific responses from the Petitioner as also all parties to the petitions before the High Court including on issues, which are currently subject matter of investigation / inquiry by the various committees. There are about 9 committees and other sub-committees currently looking into various aspects of the Incident. Offering any explanation to these issues at this stage will definitely have a bearing on the ongoing investigations by other committees and it shall cause grave prejudice to the Petitioner as such preliminary explanations cause serious impediment to the conduct of fair, proper and effective

**D**

investigations or inquiries by other committees investigating the matter presently. In fact, these responses would prejudice all the fact-finding inquiries into a complex matter when no final report has been prepared by any committee. In this background, while similar investigations with near identical terms of reference are still ongoing, a direction from the High Court seeking certain explanations, including on the cause of the incident, from the Petitioner or any of the Respondents threatens the integrity and independence of such ongoing investigations and thus the order of the High Court is premature, without application of mind and ought to be set aside.

- F. Additionally, the direction allowing full access of the plant premises to the inquiry committees without Petitioner's personnel having access or ability to assist / respond to the inquiry committees seriously impedes the rights of natural justice of the Petitioner and cripples its ability to effectively defend itself and is against all principles of fair investigation and inquiry. The administrative / corporate office of the Petitioner is also within the same premises which the High Court has directed be sealed. If the Impugned Order is not stayed or set aside, the Petitioner will have no ability whatsoever to respond to the requests of the inquiry committees or defend itself before the High Court, the National Green Tribunal (which is also seized of the matter) or pursue its remedies before this Hon'ble Court as all the records of the company would be inaccessible to the Petitioner. The Petitioner has also sought assistance of external experts to assist in its inquiries into the incident. These experts were unable to reach the plant till 23 May 2020 due to the government imposed lockdown restricting inter-city travel. Some of these experts have sought permission and travelled to Visakhapatnam to assist the Petitioner in its inquiries, however, are prevented from accessing the plant due to the Impugned Order. While the inquiry committees are proceeding with their inquiries, the Petitioner is unable to access its records to complete its own inquiries with the help of experts, which is a serious violation of the

**E**

Petitioner's right to natural justice. Such a sweeping direction without taking into account all these issues demonstrates the perversity in the order of the High Court, which this Hon'ble Court ought to set aside.

- G. In particular, the direction to completely seize the premises of the Petitioner and not allow anyone to enter the premises is perverse, disproportionate and in any event, unwarranted. The Petitioner humbly submits that for the purposes of manufacturing operations, from much before the lockdown was put in to place (i.e. before 24.03.2020), the plant stores in godowns and tanks, various types of raw material (in the nature of chemicals, which may qualify as hazardous substances in terms of applicable statutes and rules), specialised plant & machinery and other items, which require monitoring and upkeep on 24\*7 basis. The present direction to seize the entire premises causes grave impairment to the Petitioner's ability to upkeep the plant, machinery and other raw material lying in godowns and tanks, which if not monitored properly or kept at refrigerated temperatures, may lead to hazards/ untoward events at the plant causing grave danger and risk including potentially to the surrounding inhabitants. The presence of emergency critical staff is thus necessary for the plant to remain safe and for the upkeep on the equipment, which is required to run 24\*7 even when there is no production going on at the plant. The High Court ought to have considered the risks associated with complete seizure prior to issuing the direction.
- H. The Impugned Order further proceeds on the erroneous basis that the Petitioner had commenced operations despite the government imposed lockdown and has sought for an explanation if any permissions had been sought for by the Petitioner to restart the operation. Not once during the hearing was this issue raised by the High Court. Had the said query been even put to the Petitioner, it would have been able to explain to the High Court that:

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- (i) The premises of the Petitioner have been closed since 24.03.2020. i.e. since the day the lock down measures were announced by the Central Government and the Petitioner has not commenced operations till date.
- (ii) The operations at the plant had in fact not been restarted by the Petitioner on 07.05.2020, when the gas leak incident took place. The Petitioner had proposed to start its operations only from 08.05.2020;
- (iii) That in any case the then exiting lockdown restrictions had been relaxed by the order dated 01.05.2020 issued by the Ministry of Home, Government of India and the order dated 03.05.2020 issued by the Health Medical & Family Department, Government of Andhra Pradesh. Under the above two orders the plant of the Petitioner fell within the Orange Zone where Industrial activities had been permitted. As such, no permission was even required for the Petitioner to restart its operations.
- (iv) Despite this the Petitioner, being a responsible corporate entity, had by an email dated 03.05.2020 informed the Collector and District Magistrate, Visakhapatnam (“District Magistrate”) of its intention of re-commencing operation in the coming days.

I. Similarly, prejudice and non-application of mind on the part of the High Court is evident from the directions to file a response as to how the styrene monomer had been permitted to be transported to South Korea despite the ongoing investigation into the matter. The High Court completely failed to appreciate the following facts in the affidavit dated 21.05.2020 filed by the Petitioner, which was on record before the High Court while passing the Impugned Order:

- (i) After the Incident, on 09.052020, the representatives of Petitioner had attended a video conference session with the Chief Secretary for the State of Andhra Pradesh, the District Magistrate and Shri. Kamal Kishore, representative from National Disaster Management Authority (“NDMA”).

**G**

- (ii) During this meeting, Shri. Kamal Kishore recommended removal of inventory of Styrene Monomer lying in all storage tanks of LG Polymers as a precautionary measure (as also to prevent re-occurrence of another event after the Incident).
  - (iii) Subsequently, the District Magistrate also conveyed to the Petitioner to remove the Styrene Monomer inventory from all its storage tanks stating that this was a priority for the Chief Minister of Andhra Pradesh. In view of these directions, Petitioner removed the Styrene Monomer and shipped all Styrene Monomer inventory (at its plant and the third party storage tanks) to South Korea.
  - (iv) Post the shipment, the Chief Minister of Andhra Pradesh also made public statements announcing that all the Styrene Monomer inventory was removed.
  - (v) On the contrary, the District Magistrate had in view of the safety apprehensions expressed by various committees visiting the plant for investigation instructed the Petitioner to remove all the styrene monomer from the plant. The Petitioner as a responsible corporate entity was cooperating in this regard with the instructions of the district administration. In fact, the District Collector has in its Action Taken Report filed on 20.05.2020 specifically stated that the removal of the Styrene Monomer had been done on the basis of the advice of the National Environmental Research Institute ('NERI').
  - (vi) It is submitted that the Impugned Order appears to have been passed under the misguided impression that the Petitioner clandestinely removed the styrene monomer, which is wholly incorrect.
- J. It is submitted that the Impugned Order appears to rely on facts which were not on record before the High Court and the Petitioner has been asked to offer explanations to the incomplete and incoherent findings in a report prepared purportedly by one Mr. Sagar Dhara and Mr. K Babu Rao without actually providing a copy

**H**

of such report to the Petitioner. The Impugned Order records that “*Dr EAS Sarma (Former Energy Secretary/GOI) who filed a PIL in AP High Court over this issue, has included the report prepared by the duo (Sagar Dhara and K Babu Rao)*”, however, the Petitioner has neither been served any copy of the PIL purportedly filed by Dr. EAS Sarma nor the report relied upon in such petition has been made available to the Petitioner as indeed no public interest litigation has been filed by any ‘Dr EAS Sarma’ before the Andhra Pradesh High Court. Directing the Petitioner to file responses to certain purported findings shall cause grave prejudice to the Petitioner inasmuch as the Petitioner is being asked to respond to incomplete or incoherent findings while separate yet similar investigations (with near identical terms of reference) investigating into similar issues are still in the process of fact finding. In fact, this issue was never put to the Petitioner on any of three dates when the proceedings were listed in court.

- K. It is submitted that the High Court failed to appreciate that the Petitioner had in terms of the order dated 08.05.2020 passed by the NGT already made an initial deposit of INR 50 crores with the District Magistrate. Despite having brought the said fact to the notice of the Hon’ble High Court the Impugned Order appears to proceed as if the Petitioner was attempting to shirk from its responsibilities nor not complying with any of the directions, which were being passed by the various courts and authorities. Separately, being a responsible corporate citizen, the Petitioner has been actively participating in wide spread relief and rehabilitation efforts after the Gas Leak Incident. The Petitioner has undertaken the following activities since the Incident:
- a. The Petitioner has formed a task force of about eight people to assist in remedial and rehabilitation activities in nearby villages with a view to provide support for residents. In this regard the Petitioner has been providing both food supplies and medical supplies to the residents of the nearby villages.

## I

It has been carrying out ventilation activities in the nearby households to mitigate the odour from the Gas Leak.

- b. The Petitioner had already undertaken upon itself the medical expenses of all families, which have been affected by the incident. Further, the Petitioner had also tied up with prominent hospital, Suraksha Health Park Hospital, to provide the necessary assistance to the affected people.
  - c. The Petitioner has also has been operating a 24-hour hot-line since 13.05.2020 to provide support to the residents and to take remedial actions. As of 19 May 2020, the hot-line services were utilized in about 101 cases.
  - d. The Petitioner has been in the process of preparing relief packages comprising of daily necessities, feminine products, cosmetic products, face masks, gloves, and food (such as rice, beans, and cooking oil) for distribution in the affected areas and hospitals.
  - e. Further, even in light of the unprecedented circumstances presented by COVID-19 pandemic, the Petitioner has been fully co-operating with various investigation authorities / expert bodies/ inquiry committees who have been visiting the plant. The Petitioner has also mobilized its own technical team (including some representatives from South Korea) to provide assistance in these parallel inquiries or investigations.
  - f. All of these efforts will be impossible to coordinate and implement if the Petitioner does not have access to its premises, which has the administrative / corporate office of the Petitioner.
- L. It is submitted that the direction to completely prohibit the shifting of the assets, machinery, fixtures and contents is perverse, disproportionate, without any reason and in any event, unwarranted. Further, the direction to prohibit shifting of assets or inventory of the Petitioner will gravely affect its ability to carry out other non-manufacturing activities such as sale of existing products lying in the godowns, whether on or outside the premises, for generating

**J**

revenues to meet the day to day expenses such as salaries and other pay outs to the employees. The High Court ought to have considered the grave implications of its directions on the lives of employees as well as their families. It is submitted that finished products in the form of Polystyrene, Expandable Polystyrene and Engineering Plastics Compound have been lying on the premises of the Petitioner. Some of these items have a limited shelf life and would be of no value if they are not sold in time.

- M. It is submitted that hearing before the Hon'ble High Court on 22.05.2020 as held through video conferencing. However, at the time of the dictation / pronouncement of the order the audio link of the High Court, stopped functioning. As such the Petitioner (represented through counsel) could only see the proceedings, however, could not hear the dictation of the order. In fact, all the counsel present on the video conference link raised a similar concern. Had the Petitioner been able to hear the oral dictation of the Impugned Order, it would have had the ability to attempt to persuade the High Court not to pass the directions in the Impugned Order. In fact, the Petitioner was under the impression that no adverse orders had been passed by the High Court during the hearing. It is submitted that the Petitioner only came to know of the directions contained in the Impugned Order when a copy of the order was received by its counsel through email late at night on 23.05.2020. It is submitted that the procedure adopted by the High Court while passing the Impugned Order is in violation of the basic notions of natural justice, due process and fair play.

- 1961            The Petitioner was established in 1961 as Hindustan Polymers. In 1978 it merged with Mc Dowell & Co Ltd. of the UB Group. It was renamed LG Polymers India Private Limited (by which it is at present known) in July, 1997.

**K**

- March, 2020 Following COVID19 outbreak, both the Central Government and the State Governments started imposing various restrictions on the operations of manufacturing units like that of the Petitioner through notifications under the Disaster Management Act 2005 and the Code of Criminal Procedure 1973.
- 24.03.2020 The National Disaster Management Authority (“NDMA”) in exercise of the powers under section 6(2)(i) of the Disaster Management Act, 2005 (“DMA”) issued an Order directing the Ministries/ Departments of Government of India, and the State/Union Territory Governments and State/ Union Territory Authorities to take effective measures to prevent the spread of COVID-19 in the country. On the same day the National Executive Committee issued guidelines under Section 10(2)(1) of the DMA imposing a complete Lockdown through the country for a period of 21 days. In terms of the guidelines, all commercial, private and industrial establishments were to remain closed. All activities not specifically permitted under the guidelines were prohibited. (“**the Lockdown**”). Petitioner complied with the Government of India’s Lockdown and shut its Plant from 24 March, 2020.
- 04.04.2020 NDMA directed the continuation of the Lockdown for a further period of 14 days.
- 01.05.2020 The lockdown extended by a further period of two weeks by an Order issued on 01.05.2020. However, significant relaxations to the Lockdown were announced by governments for different zones, viz. red, orange and green zone. Vishakhapatnam was categorized as an orange zone, which implied that all activities not

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specifically prohibited by the Government were allowed to recommence.

- 4.05.2020 In view of the various guidelines and notifications issued by the authorities and in the interests of its employees, customers and suppliers, the Petitioner proposed to reopen the Plant after this unprecedented closure. In this regard an email communication was also issued by the Petitioner to the District Magistrate on 04.05.2020.
- 07.05.2020 However, before the plant could be reopened, on the morning of 07.05.2020 at around 3 AM a gas leak incident took place at the premises. The leak occurred at the Styrene Monomer (SM) storage tank No. M6 located at the premises. The cause of the Incident is not yet known. Apart from the various governmental authorities the Petitioner is also conducting an internal investigation as to the cause of the Gas Leak Incident.
- 07.05.2020 At around 7 A.M. the same day, i.e 07.05.2020 a First Information Report bearing No. 213/2020 (“the FIR”) on the basis of a complaint of one Mr. MV Subba Rao came to be registered against ‘LG Polymers, Management’ under Section 278, 284, 285, 377, 338, 304 – II of the Indian Penal Code 1860 (“IPC”).
- 07.05.2020 As per a Press Release issued by the Prime Minister’s Office on 07.05.2020 a team from the Chemical, Biological, Radiological and Nuclear unit (“CBRN”) of National Disaster Response Force along with an expert team of National Environmental Engineering Research Institute (“NEERI”) was constituted to visit Vishakhapatnam “to support the State Government in the management of the crisis on the ground.” (“**the Central Government Committee**”)

**M**

07.05.2020 The High Court of Andhra Pradesh at Amaravati by an Order dated 07.05.2020 in Suo Moto WP (PIL) No. 112 of 2020 took *suo moto* cognizance of the Incident (basis a report furnished by the Andhra Pradesh State Legal Services Authority) and directed the constitution of a committee of appropriate Officers.

A copy of the Order dated 07.05.2020 in Suo Moto WP(PIL) No. 112 of 2020 passed by the High Court of Andhra Pradesh is annexed herewith and marked as **ANNEXURE “P-1”** (At page 56 to 60)

07.05.2020 The National Human Rights Commission (“NHRC”) issued a Press Release dated 07.05.2020 stating that it had taken *suo moto* cognizance of the media reports of the Gas Leak Incident. The Chief Secretary, Government of Andhra Pradesh called to submit a detailed report in the matter including the “status of the rescue operation, medical treatment provided to the people fallen sick and relief and rehabilitation provided by the state authorities to the affected families.” The NHRC also issued notice to the Director General of Police, Andhra Pradesh about the registration of FIRs in the matter and the status of investigations being conducted. The NHRC also requested the Secretary, Ministry of Corporate Affairs “to examine whether the norms laid down under relevant provisions of the law are being implemented at the particular industrial unit and to submit a report to the Commission.” (“NHRC Directions”)

07.05.2020 The Collector and District Magistrate, Visakhapatnam issued an Order dated 07.05.2020 constituting an Internal Committee to verify whether the “procedure is being followed by the” Petitioner. The District Magistrate

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directed the Committee to inspect the Plant of the Petitioner immediately and keep the district administration informed. (“the Internal Committee”)

07.05.2020 The Chief Secretary, Government of Andhra Pradesh also directed the constitution of a (i) committee of four professors of Andhra University from academic side to study the scenario and advise the district administration; (ii) committee to check for leakages every hour; (iii) committee for testing of food grains, millets and pulses in vicinity of the affected areas; (iv) committee to ensure free treatment in the Hospital.

08.05.2020 The State of Andhra Pradesh issued an Order dated 08.05.2020 (G.O 449) sanctioning the release of an amount of Rs 30 Crores in favour of the District Collector (Relief and Measures) Visakhapatnam from the Chief Ministers Relief Fund for being distributed to the victims of the Gas Leak Incident.

A true copy of the Order dated 07.05.2020 (G.O 449) issued by the State of Andhra Pradesh is annexed herewith and marked as **ANNEXURE “P-2”** (At page **61 to 62**)

08.05.2020 The State of Andhra Pradesh issued another Order bearing No. G.O. RT. No. 803 dated 08.05.2020 (G.O. 803) (in terms of the directions of the High Court) appointing a High Powered Committee “to probe into the cause behind the gas leak and to take stock of the recovery steps being taken in response to the incident.” This committee is to submit its final recommendation to the Government, within one month. (“**High Powered Committee**”).

A true copy of the Order dated 07.05.2020 (G.O 803) issued by the State of Andhra Pradesh is annexed

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herewith and marked as ANNEXURE “P-3” (At page  
63 to 66 )

- 08.05.2020 The NGT passed by an order dated 08.05.2020 taking *suo moto* cognizance of the Gas Leak Incident on the basis of certain media reports and the following direction were passed:
- (a) A five-member committee was to be constituted for conducting a fact finding inquiry in relation to the Incident, (“**NGT Inquiry Committee**”); and
  - (b) The deposit of an “initial” amount of INR 50 crores was to be made by the Petitioner with the District Magistrate.
- The proceedings were directed to be listed on 18.05.2020.
- 11.05.2020 The State High Powered Committee issued a Press Note detailing the work carried out by it since its constitution. The Committee also requested all interested stakeholders to send their inputs to the Committee.
- 14.05.2020 The Petitioner filed an appeal under section 22 of the NGT Act against the order dated 08.05.2020 passed by the NGT to the extent a further committee had been directed to be constituted to look into the Incident.
- 15.05.2020 The Petitioner deposited the amount of Rs. 50 Crores with the District Magistrate in terms of the Order dated 08.05.2020 passed by the NGT.
- 16.05.2019 The Petitioner filed an Affidavit dated 16.05.2020 before the NGT to bring on record its compliance with the direction to make the deposit of Rs. 50 Crores
- 18.05.2019 The *suo moto* proceedings before the NGT were shown in the cause list as being adjourned for 01.06.2020 to await the report of the inquiry committee. The cause list

P

of the NGT also showed an application filed by one EAS Sarma also listed along with the suo moto proceedings.

18.05.2020 A public interest litigation being WP (PIL) No. 117 of 2020 came to be filed before the High Court of the Andhra Pradesh. The petition came to be listed before the High Court along with the suo moto proceedings. The Court before whom the matters were listed felt that it was appropriate that the proceedings be heard by a bench presided by the Hon'ble Chief Justice. Both the petitions accordingly were adjourned to 15.06.2020. The order passed by the High Court on that date is not yet available.

A true copy of the Writ Petition being WP(PIL) No. 117 of 2020 dated 'nil' (without enclosures) is annexed herewith and marked as **ANNEXURE "P-4"** (At page **67 to 84** )

18.05.2020 The NGT Inquiry Committee provided a copy of its Interim Report dated 17.05.2020 to the Petitioner. The copy of the Interim Report was supplied to the Petitioner on 18.05.2020. Even though the Interim Report mentioned various enclosures / attachment a copy of the said enclosures has till date not been provided to the Petitioner.

19.05.2020 This Hon'ble Court by its order 19.05.2020 while hearing the appeal filed by the Petitioner against the Order dated 08.05.2020 permitted it to raise all its objection to jurisdiction before the NGT. The Hon'ble Supreme Court directed the proceedings to be next listed on 08.06.2020.

20.05.2020 Another public interest litigation being WP (PIL) No. 119 of 2020 came to be listed before the High Court along with the suo moto proceedings and the pending public interest litigation. After briefly hearing the parties the

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Hon'ble High Court directed the Petitioner to filed an affidavit explaining:

- a) The total number of the employees of the Petitioner;
- b) The details of the annual turnover and profit after tax of the Petitioner for the last ten years;
- c) The current valuation of the Petitioner;
- d) The reason why Styrene Monomer from the premises of the Petitioner was shipped back to South Korea.

The copy of the order passed by the High Court on that date is not yet available.

20.05.2020 The District Magistrate filed its Action Taken Report dated 19.05.2020 before the High Court in the suo moto proceedings. The copy of the report was supplied to the Petitioner on 20.05.2020 (minus annexures).

The Report inter-alia lists the various committees which have been formed by the different authorities to look into the incident and notes that after the reports from the different committee a detailed affidavit would be filed before the High Court.

A copy of the Action Taken Report dated 19.05.2020 (received on 20.05.2020) filed by the District Magistrate before the High Court is annexed herewith and marked as **ANNEXURE "P-5" (At page 85 to**

**94)**

20.05.2020 On the basis of a notice issued by the Police Department the Director(s) / Employees of the Petitioner surrendered their passport. A Notice was also received from the Police Department directing the concerned persons to cooperate with the investigation.

21.05.2020 The Petitioner filed its affidavit dated 21.05.2020 in compliance with the directions of the Hon'ble Court on

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20.05.2020. In the affidavit, the petitioner provided the details of its financial position. It also explained in detail that why the styrene monomer stored in its premises was shipped back to South Korea.

A copy of the Affidavit dated 21.05.2020 filed by the Petitioner before the High Court is annexed herewith and marked as **ANNEXURE “P-6”** (At page **95 to 183** )

21.05.2020 The Ministry of the Commerce and Industry, Government of India (through the Petroleum & Explosive Safety Organisation (PESO) filed an Affidavit before the High Court of Andhra Pradesh in the suo moto proceedings (Suo Moto WP (PIL) No. 112 of 2020) detailing the steps undertaken by it after the gas leak incident. The Affidavit states that team of officers from PESO had visited the plant on 08.05.2020 and submitted a preliminary report.

A copy of the Affidavit dated 19.05.2020 (supplied on 21.05.2020) filed by the Ministry of the Commerce and Industry, Government of India (through the Petroleum & Explosive Safety Organisation (PESO) before the High Court is annexed herewith and marked as **ANNEXURE “P-7”** (At page **184 to 188** )

21.05.2020 The Ministry of Environment, Forest and Climate Change, Government of India filed an Affidavit before the High Court of Andhra Pradesh in the suo moto proceedings (Suo Moto WP (PIL) No. 112 of 2020) setting out in details the regulatory mechanism which exists for avoiding chemical accidents in industrial units. The Reply Affidavit indicates that the Ministry has asked the Government of the State of Andhra Pradesh and the Andhra Pradesh Pollution Control Board to submit a detailed report to it.

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A copy of the Affidavit dated 'nil' (supplied on 21.05.2020) filed by the Ministry of Environment, Forest and Climate Change, Government of India) before the High Court is annexed herewith and marked as **ANNEXURE "P-8"** (At page 189 to 200 )

21.05.2020 The petitioner before the High Court in WP(PIL) No. 119 of 2020 supplied a copy of his writ petition to the Petitioner. Additional documents also came to be filed in the said petition.

A copy of the writ petition being WP (PIL) No. 119 of 2020 received on 21.05.2020 (without enclosure) is annexed herewith and marked as **ANNEXURE "P-9"** (At page 201 to 227 )

A copy of the affidavit of additional document dated 21.05.2020 filed in WP (PIL) No. 119 of 2020 (without relevant enclosure) are annexed herewith and marked as **ANNEXURE "P-10"** (At page 228 to 231 )

22.05.2020 All three petitions were listed before the Hon'ble High Court for hearing. The High Court has by the Impugned Order inter alia directed:

- (a) The premises of the Petitioner be seized and no person be permitted to enter it.
- (b) The assets of the Petitioner (movable or immovable) not be shifted without the leave of the court.

It is submitted that while dictating the order the video conferencing facility of the High Court had a technical problem and the Petitioner (and other counsel) could not hear the order being dictated. In fact at no stage during the hearing had the Hon'ble Court indicated an intention to pass such drastic direction. It was only when the order

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was made available late on 23.05.2020 Petitioner came to know of the sweeping directions contained in the Impugned Order. The High Court has listed the proceedings next on 28.05.2020.

- 22.05.2020 Meanwhile, in terms of the directions of this Hon'ble Court the Petitioner made an application for review and recall of the order dated 07.05.2020 passed by the NGT in O.A. No. 73 of 2020. The Petitioner craves leave to file a separate application to bring on record facts subsequent to the passing of the Impugned Order.
- 24.05.2020 The Petitioner filed an application before the Hon'ble High Court seeking the modification of the Impugned Order so as to permit the Petitioner to access the premises for emergency needs and services. The Petitioner craves leave to file a separate application to bring on record facts subsequent to the passing of the Impugned Order.
- 25.05.2020 Hence, the present petition seeking Special Leave to Appeal.

IN THE SUPREME COURT OF INDIA

[ORDER XXI RULE 3(1)(a)]

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION

(Under Article 136 of the Constitution of India)

**SPECIAL LEAVE PETITION (CIVIL) NO. \_\_\_\_\_ OF 2020**

[Against the common impugned interim order dated 22.05.2019 passed by the High Court of Andhra Pradesh at Amravati in WP (PIL) No. 112 of 2020, WP (PIL) No. 117 of 2020 and WP (PIL) No. 119 of 2020]

**(WITH PRAYERS FOR INTERIM RELIEFS)**

**IN THE MATTER OF:**

**POSITION OF THE  
PARTIES**

**WP(PIL) NO. 112 OF  
2020**

**BEFORE  
THE HIGH  
COURT**

**IN THIS  
COURT**

- |    |  |                     |            |
|----|--|---------------------|------------|
| 1. | M/s. LG Polymers India Pvt. Ltd.,<br>RRV Puram, Naidu Thota,<br>Visakhapatnam, Andhra Pradesh 530029 | Respondent<br>No. 8 | Petitioner |
|----|--|---------------------|------------|

Versus

- |    |  |                    |                                  |
|----|--|--------------------|----------------------------------|
| 1. | The State of Andhra Pradesh, Represented by the Chief Secretary, | Respondent<br>No.1 | Contesting<br>Respondent<br>No.1 |
|----|--|--------------------|----------------------------------|

Secretariat,  
Velagapudi, Amaravati.

- |    |  |                     |                                   |
|----|--|---------------------|-----------------------------------|
| 2. | Director General of Police,<br>Andhra Pradesh,<br>Mangalagiri, Guntur<br>District                          | Respondent<br>No.2  | Contesting<br>Respondent<br>No.2  |
| 3. | Commissioner of Police,<br>Visakhapatnam City  | Respondent<br>No.3  | Contesting<br>Respondent<br>No.3  |
| 4. | Union of India,<br>Represented by the<br>Secretary,<br>Ministry of Industries,<br>New Delhi                | Respondent<br>No. 4 | Contesting<br>Respondent<br>No. 4 |
| 5. | Union of India,<br>Represented by the<br>Secretary,<br>Ministry of Environment<br>and Pollution, New Delhi | Respondent<br>No. 5 | Contesting<br>Respondent<br>No. 5 |
| 6. | The District Collector,<br>Visakhapatnam District,<br>Visakhapatnam  | Respondent<br>No. 6 | Contesting<br>Respondent<br>No. 6 |
| 7. | The Superintendent,<br>King George Hospital,<br>Visakhapatnam  | Respondent<br>No. 7 | Contesting<br>Respondent<br>No. 7 |

**AND**

<b>IN THE MATTER OF:</b>	<b>POSITION OF PARTIES</b>
<b>WP (PIL) NO. 117 of 2020</b>	<b>BEFORE THE HIGH COURT</b>
<b>IN THIS COURT</b>	

- |    |   |                     |            |
|----|---|---------------------|------------|
| 1. | M/s. LG Polymers India<br>Pvt. Ltd.,<br>RRV Puram, Naidu Thota, | Respondent<br>No. 3 | Petitioner |
|----|---|---------------------|------------|

Visakhapatnam, Andhra Pradesh 530029 Through Authorised Signatory

Versus

- |    |   |                     |                                   |
|----|---|---------------------|-----------------------------------|
| 1. | The State of Andhra Pradesh,<br>Represented by its Principal Secretary,<br>Department of Industries,<br>Secretariat, Andhra Pradesh                               | Respondent<br>No.1  | Contesting<br>Respondent<br>No. 1 |
| 2. | The Commissioner,<br>Department of Industries,<br>O/o<br>First Floor, Government<br>Regional Printing Press<br>Buildings, Mutyalampadu<br>St, Vijayawada, 520 011 | Respondent<br>No. 2 | Contesting<br>Respondent<br>No. 2 |
| 3. | The Director,<br>LG Polymers India Pvt.<br>Ltd.,<br>RR Venkatapuram,<br>Vishakapatnam,<br>Andhra Pradesh- 530029  | Respondent<br>No. 4 | Proforma<br>Respondent<br>No. 3   |

**AND**

<b>IN THE MATTER OF</b>	<b>POSITION OF PARTIES</b>	
<b>WP (PIL) NO. 119 of 2020</b>	<b>BEFORE</b>	<b>IN THIS</b>
	<b>THE HIGH</b>	<b>COURT</b>
	<b>COURT</b>	

- |    |  |                      |            |
|----|--|----------------------|------------|
| 1. | M/s. LG Polymers India Pvt. Ltd.,<br>RRV Puram, Naidu Thota,<br>Visakhapatnam, Andhra Pradesh 530029 | Respondent<br>No. 16 | Petitioner |
|----|--|----------------------|------------|

## Versus

- |    |  |                     |                                   |
|----|--|---------------------|-----------------------------------|
| 1. | The Union of India,<br>Represented by its Under<br>Secretary,<br>Ministry of Home Affairs,<br>New Delhi.   | Respondent<br>No. 1 | Contesting<br>Respondent<br>No. 1 |
| 2. | The Union of India,<br>Represented by its<br>Secretary,<br>Ministry of Environment,<br>Forest and Climate<br>Changes, New Delhi  | Respondent<br>No.2  | Contesting<br>Respondent<br>No.2  |
| 3. | The Central Bureau of<br>Investigation,<br>Represented by its<br>Director, Plot No, 5-B, 6 <sup>th</sup><br>Floor,<br>CGO Complex, Lodhi<br>Road,<br>Jawaharlal Nehru Stadium<br>Marg,<br>Delhi 110003 | Respondent<br>No.3  | Contesting<br>Respondent<br>No. 3 |
| 4. | The State of Andhra<br>Pradesh,<br>Represented by its<br>Principal Secretary,<br>Department of Industries,<br>Velagapudi, Amaravathi   | Respondent<br>No. 4 | Contesting<br>Respondent<br>No.4  |
| 5. | The State of Andhra<br>Pradesh,<br>Represented by its<br>Secretary<br>Ministry of Environment,<br>Forest and Climatic<br>Changes,<br>Velagapudi, Amaravathi  | Respondent<br>No. 5 | Contesting<br>Respondent<br>No. 5 |
| 6. | The State of Andhra<br>Pradesh,  | Respondent<br>No. 6 | Contesting<br>Respondent<br>No. 6 |

- Represented by its  
Secretary, Home  
Department,  
Velagapudi, Amaravathi
7. The State of Andhra Pradesh,  
Represented by its  
Secretary,  
General Administration  
Department (SC. I),  
Velagapudi, Amaravathi
- Respondent  
No. 7
- Contesting  
Respondent  
No. 7
8. Central Pollution Control  
Board,  
Represented by its Member  
Secretary,  
Parivesh Bhawan,  
Maharashi, Valmiki Marg,  
East Arjun Nagar, Vishwas  
Nagar Extension,  
Shahdara, Delhi, 110032
- Respondent  
No. 8
- Contesting  
Respondent  
No. 8
9. A. P Pollution Control  
Board,  
Represented by its Member  
Secretary, Kadiyala Vari  
St,  
Moghalrajpuram,  
Suryaraopeta,  
Vijaywada, Andhra  
Pradesh 520002
- Respondent  
No. 9
- Contesting  
Respondent  
No. 9
10. The Collector and District  
Magistrate,  
Krishnagar, Maharani Peta,  
Visakhapatnam, Andhra  
Pradesh, 530002
- Respondent  
No. 10
- Contesting  
Respondent  
No. 10
11. Commissioner of Labour,  
Kovelamudivar Street,  
Suryaraopeta,  
Vijaywada, Andhra  
Pradesh 520002
- Respondent  
No. 11
- Contesting  
Respondent  
No. 11

- |     |   |                      |                                    |
|-----|---|----------------------|------------------------------------|
| 12. | Visakhapatnam Municipal Corporation,<br>Represented by its Commissioner, Chitralaya Rd,<br>Suryabagh, Jagadamba Junction,<br>Visakhapatnam, Andhra Pradesh 530020 | Respondent<br>No. 12 | Contesting<br>Respondent<br>No. 12 |
| 13. | Chief Inspector of Factories,<br>Department of Factories,<br>Yadavula Bazar, Benz Circle,<br>Vijaywada, Andhra Pradesh 520008                                     | Respondent<br>No. 13 | Contesting<br>Respondent<br>No.13  |
| 14. | State Crisis Group,<br>Vijaywada, Krishna District.   | Respondent<br>No. 14 | Contesting<br>Respondent<br>No. 14 |
| 15. | Central Crisis Group,<br>New Delhi  | Respondent<br>No. 15 | Contesting<br>Respondent<br>No. 15 |
| 16. | LG Chem,<br>Represented by its Managing Director, LG Twin Towers,<br>128 Yeoui,<br>Yeongdeungpo-gu Seoul<br>Korea, Republic of (South)                            | Respondent<br>No. 16 | Performa<br>Respondent<br>No. 16   |
| 17. | Byungkeun Song, Director,<br>M/S LG Polymers India Pvt. Ltd,<br>Quality Innovation & Solutions,<br>RR Venkatapuram,<br>Visakhapatnam 530029                       | Respondent<br>No. 17 | Performa<br>Respondent<br>No. 17   |

- |     |  |                      |                                  |
|-----|--|----------------------|----------------------------------|
| 18. | Hyun Seok Jang, Director,<br>M/S LG Polymers India<br>Pvt. Ltd,<br>Quality Innovation &<br>Solutions RR<br>Venkatapuram,<br>Visakhapatnam 530029                       | Respondent<br>No. 18 | Proforma<br>Respondent<br>No. 18 |
| 19. | Sunkey Jeong, Director,<br>M/S LG Polymers India<br>Pvt. Ltd,<br>Quality Innovation &<br>Solutions RR<br>Venkatapuram,<br>Visakhapatnam 530029                         | Respondent<br>No. 19 | Proforma<br>Respondent<br>No. 19 |
| 20. | Poorna Chandra Mohan<br>Rao Pitchuka, Director,<br>M/S LG Polymers India<br>Pvt. Ltd,<br>Quality Innovation &<br>Solutions RR<br>Venkatapuram,<br>Visakhapatnam 530029 | Respondent<br>No. 20 | Proforma<br>Respondent<br>No. 20 |
| 21. | Chan Sik Chung, Director,<br>M/S LG Polymers India<br>Pvt. Ltd,<br>Quality Innovation &<br>Solutions RR<br>Venkatapuram,<br>Visakhapatnam 530029                       | Respondent<br>No. 21 | Proforma<br>Respondent<br>No. 21 |

TO

THE HON'BLE CHIEF JUSTICE OF INDIA  
AND HIS COMPANION JUSTICES OF THE  
HON'BLE SUPREME COURT OF INDIA.

THE HUMBLE PETITION OF  
THE PETITIONERS ABOVENAMED,

**MOST RESPECTFULLY SHEWETH :**

1. That the petitioner herein most respectfully submit that this Petition under Article 136 of the Constitution of India seeking Special Leave to Appeal has been filed against the common impugned interim order dated 22.05.2019 passed by the High Court of Andhra Pradesh at Amravati in WP (PIL) No. 112 of 2020, WP (PIL) No. 117 of 2020 and WP (PIL) No. 119 of 2020 (“the Impugned Order”). Vide the Impugned Order, the High Court, inter alia, directed that (“Impugned Directions”):

(a) The premises of the Petitioner be completely seized and no person, including the directors of the Petitioner be permitted to enter the premises of the Petitioner.

(b) The committees investigating the Styrene gas leak incident that occurred at one of the storage tanks on the premises of the Petitioner on the early hours of 07.05.2020 (“the Incident”) were permitted to inspect the premises subject to a log being maintained at the gate of the Petitioner’s premises regarding the said inspection;

(c) All the assets (movable or immovable), fixtures, machinery and contents of the Petitioner were directed not to be shifted without the leave of the High Court;

(d) Separately, the High Court sought certain explanations on some issues, including the issues in relation to the

cause of the Incident and the High Court granted liberty to the Central Government and the State Government to 'apprise' the High Court as to which amongst the various Committees investigating the Incident "shall fulfill the purpose to answer all the quests in issue".

## 2. QUESTIONS OF LAW

The following substantial questions of law of general and public importance, which are required to be determined by this Hon'ble Court: -

- A. Whether the Impugned Order passed by the High Court is valid and sustainable in law?
- B. Whether the High Court could issue adverse directions against the Petitioner without providing any opportunity for hearing to the Petitioner and hence, whether the Impugned Order violates principles of natural justice?
- C. Whether the Impugned Order discloses any reasons or purport of the directions issued by the High Court?
- D. Whether the High Court has the power to pass a direction asking the Central and State government to in effect take a decision as to which of the multiple

inquiry committees will answer the questions in issue when this very issue is pending before this Hon'ble Court in Civil Appeal (D) No. 11327 of 2020?

- E. Whether the Impugned Order passed by the High Court directing respondents to provide explanations to the cause of the Incident while various investigations are still ongoing (and when the premises is seized with entry restrictions) is perverse and completely unsustainable in law and premature?
- F. Whether the directions issued by the High Court seeking explanations to a report from the Petitioner without actually providing a copy of such report is valid and sustainable in law?
- G. Whether the direction issued by the High Court to seize the entire premises of the Petitioner is warranted in the present case and whether such direction is valid and proportionate?
- H. Whether the direction issued by the High Court prohibiting the entry into the premises of the Petitioner by any person, including for the directors of the Petitioner, is perverse and against principles of justice, equity and fairness?
- I. Whether the direction issued by the High Court prohibiting the movement or shifting of assets, plant,

machinery and contents is perverse and unsustainable in law?

- J. Whether the directions issued by the High Court gravely affect the ongoing investigations and fails to secure the ends of justice, equity and fairness?

3. **DECLARATION IN TERMS OF RULE 3(2):**

The Petitioners state that no other similar Petition seeking leave to appeal has been filed by them against the common impugned interim order dated 22.05.2019 passed by the High Court of Andhra Pradesh at Amravati in WP (PIL) No. 112 of 2020, WP (PIL) No. 117 of 2020 and WP (PIL) No. 119 of 2020 (“the Impugned Order”). The Petitioner has however moved a limited application for modification before the High Court.

4. **DECLARATION IN TERMS OF RULE 5:**

The Petitioners state that the Annexures P-1 to P-10 annexed to this Special Leave Petition are true copies of their originals and were a part of the pleadings and the records of the case in the High Court below against whose order the leave to appeal is sought for in the present Special Leave Petition. The Petitioner is filing a separate application for bring Annexures P-11 to P18 which were not on record before the High Court. The Petitioner is also filing an Application to bring on record facts and documents after the passing of the Impugned Order which include Annexure P-19 and Annexure P-20.

5. **GROUND**S

The petitioners crave the indulgence of this Hon'ble Court to grant Special Leave to Appeal, inter alia, on the following amongst other grounds:-

- A. BECAUSE the Impugned Order is bad and unsustainable in law and the directions issued by the High Court vide the Impugned Order ought to be set aside in the interest of justice and equity.
- B. BECAUSE the Impugned Order is ex-facie perverse and is in complete violation of principles of natural justice and fair investigation or inquiry.
- C. BECAUSE the Impugned Order has been passed by the High Court without any basis and the Impugned Order does not disclose any reasons or the purport of such directions.
- D. BECAUSE the High Court, being completely aware that the investigation into the Incident is still ongoing and various committees appointed by the Central Government, State Government as well as the National Green Tribunal, including the committee appointed pursuant to the directions issued by the High Court, are still carrying out the fact finding exercise, erroneously and in a perverse manner directed 'any committee' to give explanations to the High Court about the issues raised in relation to the Incident. It is humbly submitted that the direction issued by the High Court seeking explanations, including for cause of

the Incident at this stage, i.e. a stage at which the none of the committees conducting inquiries or investigation have completed their investigation and/or finalized their reports, is perverse, completely unsustainable in law and causes grave prejudice to the Petitioner for the following reasons:

- i. The High Court is completely aware that the following committees are investigating into the Incident and they have still not completed their investigation and/or finalized their reports:
  - a. The Prime Minister's Office by a Press Release issued on 07.05.2020 constituted a team from the Chemical, Biological, Radiological and Nuclear unit ("CBRN") of National Disaster Response Force along with the expert from the National Environmental Engineering Research Institute ("NEERI") to investigate into the Gas Leak Incident;
  - b. The District Magistrate has by an Order dated 07.05.2020 directed the constitution of an Internal Committee to look into the Incident and update the district administration on a regular basis.
  - c. The State of Andhra Pradesh has in terms of the order dated 07.05.2020 passed by the High Court constituted a High Powered Committee to investigate the Gas Leak Incident.
  - d. The National Human Rights Commission by a Press Release dated 07.05.2020 announced that it has issued a notice amongst other to the

State of Andhra Pradesh to file a status Report on the Incident.

- e. The NGT by an Order dated 08.05.2020 directed the constitution of a committee to look into the Gas Leak Incident;
- f. The Chief Controller of Explosives, Petroleum & Explosive Safety Organization (PESO) has in its Affidavit dated 21.05.2020 stated that a team of officers has been constituted to look into the Gas Leak Incident.
- g. The Ministry of Environment, Forest and Climate Change, Government of India has in its Affidavit dated 20.05.2020 stated that a report into the Gas Leak Incident has been called by it from the Government of Andhra Pradesh and the Andhra Pradesh Pollution Control Board.
- h. The Action Taken Report dated 19.05.2020 filed by the District Collector indicates that the Chief Secretary to the Government of Andhra Pradesh has directed the constitution of (i) a committee with four Andhra University professors from academic side to study the scenario and advice the District Administration; (ii) a committee to check for leakages every hour; (iii) a committee for testing of Food Grains Millets and pulses in the vicinity of the plant; a committee to ensure free treatment in the Hospital. As per the same report an expert group comprising of 10 doctor

has been constituted for offering opinion and to give inputs regarding the follow up of patients admitted.

- i. Apart from this the Petitioner is also facing an investigation on the basis of the FIR No. 213 of 2020 which had been registered on 07.05.2020.
  - j. Directing Central and State Government to apprise the High Court about which committee shall provide explanations sought by the High Court, including on the cause of the Incident, at this premature stage while the investigations are still ongoing is perverse and is without any application of judicial mind.
- ii. At present, various committees are in the fact finding stage. As such, various committees have been seeking explanations or clarifications from the Petitioner on various facts/issues and to the Petitioner's best knowledge, no final report has been prepared by any committee. In this background, while similar investigations with near identical terms of reference are still ongoing, a direction from the High Court seeking certain explanations, including on the cause of the incident, from any committee threatens the integrity and independence of such ongoing investigations.
  - iii. Without prejudice to the Petitioner's principal objections to similar and parallel investigations with near identical terms of reference, which is presently

in challenge before this Hon'ble Court in Civil Appeal (D) No. 11327 of 2020, solicitation of any explanations, including on the cause of incident, at this premature stage shall defeat the entire purpose of such fact finding exercises or investigations and the effective culmination or closure of such parallel investigations;

- iv. Explanations provided by any committee to the High Court at this premature stage, will definitely have a bearing on the ongoing investigations by other committees and it shall cause grave prejudice to the Petitioner inasmuch as such preliminary explanations, provided at this stage, causes serious impediment to the conduct of a fair, proper and effective investigation or inquiry by other committees investigating the matter at present.
- v. The High Court, being aware that the Petitioner had already approached this Hon'ble Court seeking consolidation of inquiries and that the Petitioner was approaching the NGT seeking a review or recall of its order dated 08.05.2020 (by which the NGT commissioned an inquiry into the cause of the Incident), erroneously issued an order directing, inter alia, that "*the central government and the state government are at liberty to apprise as to which committee shall fulfill the purpose to answer all the quests in issue*". Besides the core issue of seeking explanations at this premature stage, the High Court completely failed to appreciate that the issue of consolidation of inquiries/ investigation is presently

pending before this Hon'ble Court as well as before NGT and that the direction to grant liberty to any committee to apprise the High Court about the cause of incident shall render all such proceedings nugatory and infructuous.

- vi. Moreover, the direction to provide explanations at this premature stage is contrary to principles of natural justice and fair investigation or inquiry. At this stage, the Petitioner has not been provided by any final report or explanations by any committee and the Petitioner had not had an opportunity of reviewing such findings or explanations or providing clarifications/ explanations to any committee in respect of such findings. Soliciting such explanations from any committee at this premature stage, without providing an opportunity to the Petitioner to review or contest such explanations or findings before such committee, is contrary to principles of natural justice as well as fair investigation or inquiry.

E. BECAUSE the Impugned Order is against all settled principles of natural justice inasmuch as it seeks explanations to certain incomplete and incoherent findings purportedly extracted from some report without actually providing a copy of such report or findings to the Petitioner. The Petitioner humbly submits that the directions issued by the High Court seeking explanations from the Petitioner to some purported findings in a report prepared by one Mr. Sagar Dhara and Mr. K Babu Rao without actually providing a copy of such report shall cause grave prejudice

to the Petitioner inasmuch as the Petitioner is being asked to respond to such incomplete or incoherent findings while separate yet similar investigations (with near identical terms of reference) investigating into similar issues are still in the process of fact finding or finalization of their reports.

F. BECAUSE the direction to completely seize the company and not allow anyone to enter the premises is perverse, disproportionate and in any event, unwarranted. The Petitioner humbly submits that for the purposes of manufacturing operations, the plant houses various chemicals, machinery and other substances which require attention on 24\*7 basis. The present direction to seize the entire premises causes grave impairment to the Petitioner's ability to upkeep the plant, machinery and other chemicals/substances and it puts the entire plant at grave danger and risk. The High Court ought to have considered the risks associated with complete seizure prior to issuing the direction. Moreover, the Incident occurred at only at one tank on the plant, i.e. tank M-6. In any event, no reason whatsoever has been provided by the High Court for ordering seizure of the entire plant and no opportunity for hearing was provided to the Petitioner prior to issuing such order. Therefore, the direction to seize the entire plant, apart from causing grave risks or danger to general public, is perverse, disproportionate and unwarranted and is liable to be set aside.

G. BECAUSE while directing seizure of the premises of the Petitioner as well as restricting the entry, the High Court

completely failed to appreciate the requirement of allowing access to a minimal qualified personnel who are required to monitor, maintain and run the critical infrastructure of the plant and safety officers so as to prevent another potential incident from occurring at the plant site. A manufacturing plant requires continuous monitoring/ operations and in the case of Petitioner's plant, continuous monitoring/ oversight is required for ensuring (i) safe storage of hazardous raw material substances (lying at the plant since before 24 March 2020) as well as finished products; (ii) upkeep, running and maintenance of electrical systems / machinery (including diesel generator sets) and (iii) physical presence of personnel to manage the electricity sub-station at the plant and to ensure continuous power supply is maintained (to continue operating the refrigeration units) by switching on the diesel generator sets in case the grid power supply is disrupted. As a part of its routine business/ manufacturing operations, the plant houses hazardous chemicals such as Storage of Benzoyl Peroxide (about 46 MT is presently stored in godowns at the plant at controlled refrigeration and regular monitoring or oversight), Storage of Expandable Polystyrene (about 2621.12 MT is presently stored in godowns at the plant at controlled refrigeration and regular monitoring or oversight), Pentane (about 1170 MT is presently stored in godowns at the plant at controlled refrigeration and regular monitoring or oversight). The upkeep, maintenance and refrigeration of these substances, on a regular operational day is done by about 8-10 employees on each shift in a day. Further, all the refrigeration and storage systems at the plant require

continuous power supply which is ensured through the electrical systems and the DG sets which are maintained and run by about 6-8 employees on each shift in a day. The plant also houses about 6-8 trained safety officers and fire safety officers on each shift every day for taking appropriate and necessary actions/measures in the case of any emergencies /accidents at the Plant. The High Court completely failed to appreciate that minimum number of staff as well as trained safety and fire officers are required to be on the plant on 24\*7 basis for continuous monitoring, control and regulation of temperatures, for general maintenance of equipment, the hazardous chemicals (such as benzoyl peroxide, pentane, amongst others) and inventory of finished products (expandable polystyrene, polystyrene, and engineering plastics compound) stored at the plant.

- H. BECAUSE the High Court completely failed to appreciate that the seizure of the premises and restriction of entry would gravely effect the safety profile of the plant and it may cause irreparable harm or danger to the plant as well as the health and safety of the public and environment. Therefore, the High Court order to the extent it imposes such restrictive conditions without any application of mind ought to be set aside by this Hon'ble Court.
- I. BECAUSE the direction to restrict the entry into the premises of the Petitioner and providing exclusive entry to the committees conducting investigation or inquiry is against all principles of fair investigation and inquiry.

- J. BECAUSE if the Petitioner's senior management, maintenance, legal and administrative personnel are not permitted to be present on the premises, it will seriously impair Petitioner's ability to respond to requests for information being made by various committees as well as judicial/statutory authorities and the same may prejudice the findings in the reports by such committees and/or such judicial or regulatory proceedings. It is humbly submitted that the Petitioner's administrative block is about 3 metres away from the main entrance to the project site and it is far from the plant (i.e., the place of the Incident), and the presence of 10-15 legal, and managerial personnel on site (including external experts engaged by the Petitioner for assistance in its inquiries), would ensure optimal cooperation with various committees and/or judicial/regulatory authorities visiting the plant for inspections and/or making inquiries. The High Court completely failed to appreciate that restricting the entry of senior management, legal and administrative personnel to the premises shall cause grave prejudice and injustice to the Petitioner in such inquiries or judicial proceedings. Further, the seizure of premises and restrictions on entry denies Petitioner the access to its records as well as impairs Petitioner's ability to review and examine the plant, equipment, tanks, residual styrene and its by products, much less conduct any sampling or testing of anything for the purpose of its own internal inquiry.
- K. BECAUSE the High Court completely failed to appreciate that seizure of premises and entry restrictions shall gravely

affect Petitioner's fundamental operations (including management of cash flows, management of accounts payable / receivables, payment of salaries to its employees, payments or advances to service providers and suppliers) as well as the relief efforts (including waste management, environmental restoration and community rehabilitation and assistance). The Petitioner humbly submits that the seizure of premises and entry restrictions would adversely affect the financial health of the Petitioner and it also has serious consequences on Petitioner's employees, their dependents as well as the residents of the surrounding community. Furthermore, the High Court completely failed to appreciate that owing to these restrictions, the Petitioner's ability to continue to duly comply with its legal obligations under *inter alia* various environment / labour / industry specific laws and regulations shall be adversely affected.

- L. BECAUSE the direction to completely prohibit the shifting of the assets, machinery, fixtures and contents is perverse, disproportionate and in any event, unwarranted. At the outset, it appears that the directions against the assets or inventory of the Petitioner appears not not restricted to the premises where the Incident occurred and it appears to be extended to other manufacturing/ storage/ office spaces of the Petitioner outside the premises and no reasons whatsoever have been provided by the High Court for imposing these restrictions. Further, the Petitioner was not even given an opportunity of hearing prior to passing this direction. Besides this, during routine business operations

of the Petitioner, the plant, machinery as well as other inventory such as chemicals or substances are required to be shifted and the Petitioner cannot run any operations, let alone manufacturing operations at the premises, owing to the directions issued by the High Court. While the Petitioner is already suffering huge business loss on account of the voluntary suspension of the business operations during the lockdown as well as post the Incident, the direction to prohibit shifting of assets or inventory of the Petitioner will gravely affect its ability to carry out other non-manufacturing activities, whether on or outside the premises, for generating revenues to meet the day to day expenses such as salaries and other pay outs to the employees. The High Court ought to have considered the grave implications of its directions on the lives of employees as well as their families. Therefore, the Impugned Order to the extent it imposes perverse, disproportionate and unreasonable conditions or directions against the Petitioner is liable to be set aside.

M. BECAUSE the finished products such as EPS currently at the plant or at the storage units of the Petitioner do not have a perpetual shelf life and any defective, inadequate and/or intermittent refrigeration may change the composition of such products, which ought to be maintained at temperature below 25 degrees and if exposed to higher temperature may cause a fire hazard. Therefore, the High Court completely failed to appreciate that a prohibition on the sale of finished products may compel the Petitioner to expose such products to prolonged storage period thereby increasing the risk or

harm at the premises owing to prolonged storage of such products.

N. BECAUSE on the date of hearing before the High Court, i.e. on 22.05.2020, the High Court had not provided any reasonable opportunity of hearing to the Petitioner prior to issuing the impugned directions and the Petitioner could not contest or protest against issuance of these directions at the time of dictating orders owing to poor audio visual quality.

O. BECAUSE, the High Court completely failed to appreciate that the Petitioner and its directors have been actively participating in wide spread relief and rehabilitation efforts post the Incident and essentially, the following activities are being carried out by the Petitioner post the Incident:

- i. The Petitioner formed a task force of about eight people to assist in remedial and rehabilitation activities in nearby villages with a view to provide support for residents;
- ii. The Petitioner has been providing food for residents of nearby villages and illustratively, about 172,000 meals were provided during 12.05.2020 to 22.05.2020 and the Petitioner intends to continue to provide food packages post 24.05.2020;
- iii. The Petitioner had been providing medical support to the residents of nearby villages since 11.05.2020 and as on 22.05.2020, ventilators were supplied to about 323 households with a view to mitigate the potential odour;

- iv. The Petitioner had also met the representatives of the nearby residents on 17.05.2020 to discuss providing medical insurance, establishing a hospital, hiring local residents, setting up drinking water facilities and providing other support;
- v. The Petitioner had already undertaken upon itself the medical expenses of all families, which have been affected by the incident. Further, The Petitioner had also tied up with prominent hospital, Suraksha Health Park Hospital, to provide the necessary assistance to the affected people.
- vi. The Petitioner has also has been operating a 24-hour hot-line since 13.05.2020 to provide support to the residents and to take remedial actions. As of 22.05.2020, the hot-line services were utilized in about 116 cases.
- vii. Presently, the Petitioner is in the process of preparing relief packages comprising of daily necessities, feminine products, cosmetic products, face masks, gloves, and food (such as rice, beans, and cooking oil) for distribution in the affected areas and hospitals. The first batch of packages arrived at the Chennai airport on 17.05.2020 containing about 15,000 face masks and 100,000 NBL gloves and the Petitioner is in the process of distributing these packages. Additionally, the Petitioner is also arranging for about 77,600 face masks, 100,000 NBL gloves and 3,000 sets of daily necessities and feminine products, and cosmetic products) to be distributed to the affected persons.

- viii. The Petitioner seeks to actively participate in the rehabilitation activities in the nearby villages and it is committed to provide the necessary help and assistance to the affected persons.

6. **GROUND FOR INTERIM RELIEFS :**

- a) Because unless the operation of the Impugned Order is stayed by this Hon'ble Court, pending disposal of the Special Leave Petition, same will become infructuous.
- b) Because the balance of convenience is wholly in favour of the Petitioner.

7. **MAIN PRAYER**

In the circumstances, it is, therefore, most humbly and respectfully prayed that this Hon'ble Court may be graciously pleased to –

- a) grant Special Leave to Appeal against the common impugned interim order dated 22.05.2019 passed by the High Court of Andhra Pradesh at Amravati in WP (PIL) No. 112 of 2020, WP (PIL) No. 117 of 2020 and WP (PIL) No. 119 of 2020; and
- b) Pass such further or other orders as this Hon'ble Court may deem fit and proper;

**PRAYER FOR INTERIM RELIEFS**

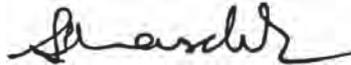
It is, therefore, most humbly and respectfully prayed that this Hon'ble Court may be graciously pleased to –

- a) Grant ex-parte stay of operation of common impugned interim order dated 22.05.2019 passed by the High Court of Andhra Pradesh at Amravati in WP (PIL) No. 112 of 2020, WP (PIL) No. 117 of 2020 and WP (PIL) No. 119 of 2020; and
- b) Pass such further or other orders as this Hon'ble Court may deem fit and proper for the ends of justice.

AND FOR THIS ACT OF KINDNESS THE PETITIONERS AS IN DUTY BOUND SHALL EVER PRAY.

FILED

THROUGH:



(SHARDUL S. SHROFF)

ADVOCATE FOR THE PETITIONER

Drawn on: 24.05.2020

Filed on: 25.05.2020

New Delhi

**TRUE COPY**

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO. \_\_\_\_\_ OF 2020

[Under Section 22 of the National Green Tribunal Act, 2010]  
(Arising out of the Impugned Interim Order Dated 01.06.2020  
passed by the National Green Tribunal, Principal Bench, New  
Delhi, In Original Application No.73 Of 2020)

**IN THE MATTER OF:-**

LG POLYMERS INDIA PVT. LTD. ... APPELLANT  
VERSUS

ANDHRA PRADESH POLLUTION  
CONTROL BOARD & ORS. ...RESPONDENTS

with

**I.A. NO. \_\_\_\_ OF 2020:**

Application for exemption from filing certified copy of the  
impugned orders

with

**I.A. NO. \_\_\_\_ OF 2020:**

Application for ad-interim ex-parte stay

with

**I.A. NO. \_\_\_\_ OF 2020:**

Application for exemption from filing of duly notarized  
affidavits

with

**I.A. NO. \_\_\_\_ OF 2020:**

Application for Placing On Record Additional Documents in  
Annexure A-8 to Annexure A-22

And

**I.A. NO. \_\_\_\_ OF 2020:**

Application for Placing On Record Subsequent Facts And  
Documents

**VOL -I [Pages A to X and 1 to 183]**

**PAPER – BOOK**

[FOR INDEX KINDLY SEE INSIDE]

**ADVOCATE FOR THE APPELLANT: MR. SHARDUL S.**  
**SHROFF**

**SYNOPSIS AND LIST OF DATES**

- A. The Appellant is preferring the present Civil Appeal under Section 22 of the National Green Tribunal Act, 2010 (“**NGT Act**”) against the Order dated 01.06.2020 (“**Impugned Order**”), passed by the National Green Tribunal (“**NGT**”), Principal Bench at New Delhi (“**the Tribunal**”) *inter-alia* In Re: Gas Leak at LG Polymers Chemical Plant in RR Venkatapuram Village in Andhra Pradesh, being the Original Application No. 73 of 2020. The Impugned Order arises out of a *suo moto* cognizance taken by the Tribunal on 08.05.2020 of a vapour release of styrene monomer (“**Incident**”) at the Appellant’s chemical plant situated in RR Venkatapuram Village in Andhra Pradesh (“**Plant**”). Upon taking *suo moto* cognizance of the Incident, the Tribunal by way of its order dated 08.05.2020 had *inter-alia* (i) constituted a 6 member Committee to inquire into the Incident (“**NGT Committee**”) and (ii) directed the Appellant herein to deposit an initial amount of INR 50 crores with the District Magistrate, Vishakhapatnam, for purported damage caused on account of the Incident. Though the Appellant complied with the directions of the Tribunal and deposited the said initial amount on 15.05.2020, an appeal was filed before this Hon’ble Court challenging the *suo moto* exercise of power by the Tribunal. This Hon’ble Court vide order dated 19.05.2020 in Civil Appeal Diary No(s) 11327/2020 had directed that the issue of *suo moto* exercise of power be

raised before the Tribunal. The Appellant filed an application to this effect before the Tribunal on 27.05.2020. From the Impugned Order, the Appellant is given to understand that the NGT Committee filed an interim report dated 17.05.2020 on 17.05.2020 and a subsequent report dated 28.05.2020 on 28.05.2020. While initially, the matter was listed before the Tribunal on 18.05.2020, the date was unilaterally changed to 01.06.2020 (vide a note on the cause list) as the report of the NGT Committee was awaited. The matter was listed only on 01.06.2020 (Monday), pursuant to which, the Tribunal passed the Impugned Order against the Appellant. In the Impugned Order, the Tribunal has upheld the *suo moto* initiation of proceedings by the Tribunal by refusing to acknowledge that this Hon'ble Court is seized of the same issue in separate matters where the *suo moto* proceedings by the Tribunal have been stayed. Additionally, the Tribunal whilst noting the Appellant's inability to address the Tribunal to respond to the reports filed by the NGT Committee, has proceeded to decide the matter on merits finding the Appellant liable for the Incident without giving an opportunity to either respond in writing or an effective hearing. By listing the matter on two dates (one of which was ex-parte), the Tribunal has decided the liability of the Appellant. Therefore, the Impugned Order is entirely bad in law inasmuch as the decision on jurisdiction is concerned and is seriously in violation of principles of natural justice.

- B. It is submitted that whilst initiating such *suo moto* proceedings and whilst passing the Impugned Order, the Tribunal has failed to appreciate that:
- i. There is no provision in National Green Tribunal Act, 2010 (“**the NGT Act**”) which empowers the Tribunal to initiate proceedings *suo moto*. Being a creation of the NGT Act, the Tribunal is bound to act within the four corners of the said statute and cannot exceed the powers vested in it thereunder;
  - ii. In terms of Section 3 of the NGT Act, the Tribunal can exercise only such jurisdiction as has been conferred on it under the NGT Act. The nature of powers and reliefs to be exercised / granted by the Tribunal are set out under the provisions of Sections 14-16 of the NGT Act. However, none of these provisions provide for *suo moto* exercise of power;
  - iii. Section 18 of the NGT Act provides for who can initiate an action / application before the Tribunal. However, the same does not provide for *suo moto* initiation of proceedings by the Tribunal.
  - iv. The issue of whether the Tribunal can *suo moto* initiate proceedings is pending for consideration before this Hon’ble Court in Civil Appeal Nos. 12122-12123 of 2018 (*Municipal Corporation Greater Mumbai vs. Ankita Sinha & Anr.*) and in Civil Appeal No. 5902 of 2019 (*Central Electricity Supply Utility of Odisha v. Government of India*). The Tribunal has not considered these pending matters as being relevant to the exercise of *suo moto* jurisdiction

on the ground that the facts of these cases “may be entirely distinguishable”. It is submitted that the Tribunal has failed to give any reason in support of such a critical observation to uphold its own jurisdiction. Needless to state that this observation cannot be construed as a finding.

- C. In order to justify its *suo moto* exercise of powers, the Tribunal has:
- i. Placed reliance on the long title of the NGT Act, the National Green Tribunal Bill, 2009, other provisions of the NGT Act and NGT (Practice and Procedure) Rule, 2011 (“**NGT Rules**”) which provide that the powers vested in the Tribunal are very wide in nature. It is submitted that whilst the Act / Rules vest wide powers in the Tribunal, it is pertinent to note that no power to initiate *suo moto* proceedings have been vested in the Tribunal.
  - ii. Additionally, in justifying its *suo moto* exercise of powers, the Tribunal has also erred in equating its powers with that of constitutional courts such as this Hon’ble Court and the Hon’ble High Courts. In taking the above positions, the Tribunal is seeking to usurp jurisdiction which is not and was not intended by the Parliament to be vested in the Tribunal.
  - iii. The Tribunal has also relied on the fact that “no other forum has been vested with such jurisdiction exclusively”. It is submitted that the Tribunal’s jurisdiction needs to be determined in view of the

provisions of the NGT Act and the mere non-vesting of such jurisdiction in any other authority cannot be a ground for vesting of such jurisdiction in the Tribunal unless expressly done so by the Legislature.

- iv. Subsequent to the initiation of the *suo moto* proceedings (being Original Application No. 73 of 2020), two other original applications pertaining to the Incident came to be transferred to the Tribunal. Placing reliance on the same, the Tribunal has sought to brush aside the issue of *suo moto* jurisdiction as being “moot”. In this regard, it is humbly submitted that both: (i) creation of the NGT Committee to inquire into the Incident and (ii) the imposition of the INR 50 crore initial compensation amount on the Appellant, had been directed by Tribunal by initiating the proceedings *suo moto* on 08.05.2020. On 08.05.2020, the other two proceedings had not even been filed. Further, since the creation of the NGT Committee *suo moto*, is without the authority of law, any decision passed solely on the basis of any purported finding of such committee (as has been done in the Impugned Order) is also bad in law. Additionally, post-facto filing of the Petitions before the Tribunal, cannot justify improper exercise of power by the Tribunal.

- D. By way of background, it is also pertinent to note that there are three public interest litigations pending before the High Court of Andhra Pradesh at Amravati (“High Court”).

Orders passed in these petitions also have a bearing on the present appeal.

- E. While the entire Impugned Order is predicated on the findings of the NGT Committee in its reports (dated 17.05.2020 and 28.05.2020) and the reply filed by Respondent Nos. 1 and 4, the Tribunal failed to afford the Appellant an opportunity to respond to the reports submitted by the NGT Committee or the Affidavits filed by the Respondent Nos. 1 and 4. In the meanwhile, the High Court on 22.05.2020, in Suo Moto WP (PIL) No. 112, WP (PIL) Nos. 117 and 119 of 2020 had directed that the Plant of the Appellant be seized. This order was challenged by the Appellant before this Hon'ble Court vide SLP (Civil) (D) No. 11636 of 2020. Subsequently, this Hon'ble Court vide its Order dated 26.5.2020 had permitted 30 personnel emergency access to the plant for its safety and upkeep only till the High Court decides the issue of lifting the order sealing the plant. The plant premises also house the corporate / administrative offices of the Appellant. However, out of the 30 people allowed to enter none were from the corporate / legal department. Accordingly, the Appellant did not have full access to its records, to be able to respond to the reports filed by the NGT Committee. This submission of the Appellant though has been noted by the Tribunal but has wrongly been rejected by the Tribunal. Moreover, the subsequent report of the NGT Committee dated 28.05.2020 was uploaded on the website of the Tribunal in the evening of 28.05.2020 without any

intimation and supply of copy to the Appellant. The said report concerns complex matters of chemistry, engineering and toxicology. The said report, which run into 168 pages cannot be responded to in a timeframe of 2 days especially without access to the plant. Further, the Affidavit filed by the Respondent No.4 was only uploaded in the website of the Tribunal on 29.05.2020 while the hearing in which the Impugned Order was passed was listed on 01.06.2020. Additionally, it is only on a perusal of the Impugned Order that the Appellant learnt that the Respondent No. 1 had filed an Affidavit before the Tribunal. The said Affidavit had not even been supplied to the Appellant, let alone any opportunity be given to the Appellant to file its response. Therefore, inasmuch as the Tribunal has proceeded to decide the matter on merits, without giving an opportunity to the Appellant to file its response, the Tribunal as acted with haste and in serious violation of principles of natural justice. On this ground alone, the Impugned Order is bad in law and liable to be set aside by this Hon'ble Court.

- F. The Impugned Order by not allowing the Appellant to place its objections to the NGT Committee reports has fastened liability on the Appellant without any opportunity of rebuttal either orally or in writing.
- G. With all the restrictions in place and the limited records available to the Appellant, the Appellant with a view to identify the root cause of the Incident retained globally renowned experts to assist it in deciphering this unprecedented event. While the experts have not been able to access the plant due to the restrictions described above,

with the limited information made available to them, following is the view emanating on the likely root cause of the incident and its impact:

- i. The release of styrene vapour on 07.05.2020 was an unexpected and unprecedented short term event, which was mitigated within 24 hours of onset by the Appellant;
- ii. Styrene monomer is the principal raw material for the products manufactured at the Plant. Styrene monomer has a tendency to polymerize, which is not desirable from a quality and safety perspective. The auto-polymerization of Styrene monomer (enhanced due to prolonged stagnation) could result in tank failures followed by a fire and explosion.
- iii. Keeping in view the continuous nature of its operations and the chemical properties of Styrene monomer, the Appellant did seek permission to run limited production at the plant alerting the authorities to the likely risk associated with stagnation of styrene, the permission to run the plant (albeit on a limited basis) was denied.
- iv. The government imposed lockdown directives prevented production at the plant and, hence, additions and discharges of styrene were also prevented. Therefore, these directives immediately imposed an unprecedented condition of prolonged stagnation of the styrene monomer in the M6 tank, which was unanticipated as the tank was intended to

- be used as a “running tank” with routine additions to and outflows from the tank;
- v. The Appellant was required, by the shutdown order, to manage the storage of thousands of metric tons of Styrene monomer, across four large tanks, for an unprecedented 45-days, with limited personnel and limited resources, and with its warnings about the risks and dangers ignored or rejected; despite all that, the Appellant undertook good-faith and reasonable efforts to manage those thousands of tons of styrene.
  - vi. The Appellant continuously monitored temperature and regularly monitored all important parameters such as the polymer concentrations and inhibitor levels in each tank. Tank temperature remained well within the desired range throughout the lockdown. The inhibitor levels in the M6 tank remained well within the desired range throughout the lockdown till the day of the incident;
  - vii. Neither recorded temperature nor measured inhibitor levels showed any sign of auto-polymerization;
  - viii. On early hours of 07.05.2020, there was a sudden release of vapour from M6 tank.
  - ix. In addition to the factors indicated at (i)-(iii) above, i.e. the unprecedented stagnation of styrene monomer due to the government imposed lockdown, other unknown factors led to the Incident.
  - x. The detection of the vapor release was picked up by the gas detectors surrounding the M-6 tank alerting the on-site employees to the Incident, which resulted

in the Appellant quickly taking steps to alert emergency service providers and on-site employees, taking steps to prevent further damage by turning on water sprinklers, refrigeration, circulation and cooling systems and in due course, adding chemical inhibitors. Each of these steps prevented a fire or explosion from occurring.

- xii. In over 80 years of commercial production and use, the primary safety concerns with the storage and use of styrene monomer has been ignition of flammable styrene vapors and an ensuing fire or explosion. The design of the plant, including the M6 tank, and the actions taken by the Appellant prevented a catastrophic rupture of the M6 tank, and prevented ignition of the styrene vapors and an explosion.
- xiii. Styrene is short lived in the environment. It is not known to cause chronic or delayed health effects as a result of short term exposure;
- xiv. For the last 80 years, there are no reported cases of deaths on account of exposure to styrene vapour release;
- xv. Medical information of the deceased / affected, such as blood tests, urine tests and evaluation of pre-existing conditions have to be reviewed before concluding whether the deaths / injuries were induced by exposure to styrene during the incident. The NGT Committee has not done this evaluation either.

xv. Appellant's equipment and procedures for handling styrene monomer were appropriate and effective for safe operation of the facility and in accordance with industry standards. This is also evidenced by decades of successful operational experience without incident.

In view of the above, many of the conclusions suggested by the inquiry committees (including the NGT Committee) are presumptive, speculative, unscientific and without any foundation based on actual facts or analysis.

H. Additionally, the Tribunal failed to appreciate that the High Court is also seized of issues pertaining to the Incident including determining the root cause, liability and compensation to be paid in Suo Moto WP (PIL) No. 112 of 2020, WP (PIL) Nos. 117 of 2020 and 119 of 2020. It was brought to the attention of the Tribunal that various other committees had been formed at the instance of the High Court and the GoAP, which were considering identical issues as that being considered by the NGT Committee and the Tribunal. In this regard, it was highlighted that given that a constitutional court was already seized of identical issues, the Tribunal may not proceed further with the reports submitted by the NGT Committee. This was more so given this Hon'ble Court was also seized of deciding the issue as to whether multiple enquiry committees can investigate the same Incident, which is pending before this Hon'ble Court in Civil Appeal (D) No. 11327 of 2020. This was necessary

so as also to avoid duplicity of proceedings and likelihood of contrary decisions by two forums. However, the Tribunal in the Impugned Order has proceeded on the erroneous basis that there is no conflict on the core issue being considered by the Tribunal and the committees so formed or the issues pending before the High Court. The very basis of the same is wholly erroneous and may result in a conflict of opinions which may ultimately result in grave prejudice to the public and the Appellant. Therefore, on this account as well, the Impugned Order is liable to be set aside by this Hon'ble Court.

1961	The Plant was established in 1961 by Hindustan Polymers.
1978	Hindustan Polymers was merged with Mc Dowell & Co Ltd. of the UB Group.
1997	Hindustan Polymers was renamed as LG Polymers India Private Limited (by which name it is presently known) in July 1997, pursuant to an acquisition of Hindustan Polymers by the Appellant.
March, 2020	Following the COVID-19 outbreak, both the Central Government and the GoAP started imposing various restrictions on the operations of manufacturing units like that of the Appellant through various notifications under the Disaster Management Act 2005, the

	Epidemic Diseases Act, 1897 and the Code of Criminal Procedure 1973.
24.03.2020	The National Executive Committee of the National Disaster Management Authority (“ <b>NDMA</b> ”) issued guidelines imposing a complete lockdown throughout the country for a period of 21 days (“ <b>Lockdown</b> ”). Accordingly, all commercial, private and industrial establishments were to remain closed. Accordingly, the Appellant was constrained to close its Plant from 24.03.2020.
24.03.2020	The Appellant submitted a letter dated 23.03.2020 to the Collector and District Magistrate, Visakhapatnam (“ <b>District Magistrate</b> ”) explaining that that it was operating a petrochemical plant (requiring a continuous process of production) and that halting those operations could cause auto-polymerization and explosion. Accordingly, the Appellant requested for permission to operate the plant with a skeletal staff, given the nature of the industry. However, the Appellant did not receive a response to this letter.
28.03.2020	As the Appellant did not receive any response from the office of the District Magistrate,

	<p>another letter was issued by the Appellant to the office of the District Magistrate apprising that hazardous chemicals are being stored in the tank farm at the Plant, which required close monitoring. Accordingly, the Appellant asked for 60 emergency passes to deploy staff at the Plant for round the clock monitoring of the raw materials. While the Appellant did not receive any response to this letter, the Appellant obtained 45 passes for the purpose of round the clock monitoring of the Plant.</p>
14.04.2020	<p>The MHA directed the extension of the Lockdown for a further period of 19 days.</p>
01.05.2020	<p>The Lockdown was further extended by a further period of two weeks (effective from 04.05.2020) by an Order issued by the MHA. However, pursuant to the said extension, certain limited activities were permitted to be carried out in the Country (including certain manufacturing activities).</p>
4.05.2020	<p>In view of the relaxation of the lockdown restrictions, the Appellant proposed to reopen the Plant to recommence manufacturing operations. Accordingly, an email was issued by the Appellant to District Magistrate.</p>

07.05.2020	Before the plant could be reopened, on the morning of 07.05.2020 at around 3 a.m. the Incident took place at the Plant. The vapour release was from the styrene monomer (SM) storage tank M6.
07.05.2020	At around 7 A.M., a First Information Report bearing No. 213 / 2020 (“ <b>FIR</b> ”) was registered at the Gopalapatnam Police Station, basis the complaint of one Mr. MV Subba Rao against ‘LG Polymers, Management’ under Sections 278, 284, 285, 377, 338 and 304 – II of the Indian Penal Code 1860 (“ <b>IPC</b> ”)
07.05.2020	A Press Release (“ <b>Press Release</b> ”) was issued by the Prime Minister’s Office, stating that a team from the Chemical, Biological, Radiological and Nuclear unit (“ <b>CBRN</b> ”) of the National Disaster Response Force along with an expert team of NEERI was constituted to visit Vishakhapatnam “ <i>to support the State Government in the management of the crisis on the ground.</i> ”
07.05.2020	The National Human Rights Commission issued a Press Release stating that it had taken <i>suo moto</i> cognizance of the media reports of the Gas Leak Incident. The NHRC issued certain directions to the authorities of the GoAP in relation to the Incident (“ <b>NHRC Directions</b> ”).

07.05.2020	The District Magistrate issued an Order dated 07.05.2020 constituting an internal committee to verify whether the “ <i>procedure is being followed in the Industry</i> ” (i.e. the Plant of the Appellant). The District Magistrate directed the Committee to inspect the Plant and keep the district administration informed.
07.05.2020	The Chief Secretary, GoAP also directed for the constitution of a (i) committee of four professors of Andhra University from the academic side to study the scenario and advise the district administration; (ii) committee to check for leakages at the Plant every hour; (iii) committee for testing of food grains, millets and pulses in vicinity of the Plant; and (iv) committee to ensure free treatment of the people affected by the Incident in Hospitals.
07.05.2020	Based on a report furnished by the Andhra Pradesh State Legal Services Authority, the High Court took <i>suo moto</i> cognizance of the Incident <i>vide</i> its Order dated 07.05.2020, in <i>Suo Moto</i> WP (PIL) No. 112 of 2020. By way of the same Order, the High Court <i>inter alia</i> directed the constitution of a committee of appropriate officers for reporting steps taken in relation to the Incident.
08.05.2020	The State of Andhra Pradesh issued another Government Order bearing No. G.O. RT. No.

	<p>803, (in terms of the directions of the High Court) appointing a High Power Committee “<i>to probe into the cause behind the gas leak and to take stock of the recovery steps being taken in response to the incident.</i>” This committee is to submit its final recommendation to the Government, within one month.</p>
08.05.2020	<p>The Tribunal took <i>suo moto</i> cognizance of the Incident on the basis of certain media reports. By way of its Order dated 08.05.2020 in O.A. No. 73 of 2020, the Tribunal issued ‘Notice’ to the Respondent Nos. 1 to 4 in the present Appeal and the Appellant. By way of the said Order, the Tribunal <i>inter-alia</i> passed the following directions:</p> <p>(a) A six-member committee was to be constituted for conducting a fact finding inquiry in relation to the Incident; and</p> <p>(b) The deposit of an “initial” amount of INR 50 crores was to be made by the Appellant with the District Magistrate.</p>
08.05.2020	<p>A public interest litigation, being <i>Rapolu Bhaskar v The State of Andhra Pradesh &amp; Ors.</i>, W.P (PIL) No. 117 of 2020 was preferred before the High Court. By way of the said petition, the petitioner therein, <i>inter alia</i> sought directions to be issued to the Appellant to give compensation of (i) INR 2 crores to the</p>

	deceased families, (ii) INR 50 lakhs to every injured person(s), (iii) INR 50,000/- for the deceased cattle and (iv) INR 5,00,000/- to the farmers, whose standing crops had been destroyed.
11.05.2020	A public interest litigation, being <i>Ramakumar Sabbavarapu v. The Union of India &amp; Ors.</i> , WP (PIL) No. 119 of 2020 was filed before the High Court, <i>inter alia</i> seeking payment of compensation by the Appellant.
13.05.2020	An application by one E.A.S Sarma being O.A. No. 68 of 2020 (SZ) came to be filed before the NGT, Southern Bench. The NGT, Southern Bench by its order dated 13.05.2020 transferred the matter to the principal bench to be heard along with the <i>suo moto</i> proceedings which were already pending. Pursuant to the transfer of the said original application to the Tribunal, the application was renumbered as O.A. No. 76 of 2020.
14.05.2020	Being aggrieved <i>inter-alia</i> by (i) initiation of <i>suo moto</i> proceedings by the Tribunal and (ii) the constitution of NGT Committee, the Appellant was constrained to file a civil appeal under Section 22 of the NGT Act against the order dated 08.05.2020, passed by the Tribunal.
15.05.2020	As directed by the Tribunal in its order dated 08.05.2020, the Appellant deposited the initial

	amount of INR 50 Crores with the District Magistrate.
17.05.2020	A report titled as “ <i>Interim Report of NGT Committee on Gas Leak of Styrene in LG Polymers India Pvt Ltd</i> ” (“ <b>Interim Report</b> ”), dated 17.05.2020, was submitted by the NGT Committee to the Tribunal. The Interim Report <i>inter alia</i> dealt with the sequence of events leading to the Incident, causes of failure, authorities responsible for failure, remedial measures to prevent recurrence and incidental issues.
18.05.2020	The matters were to be listed before the Tribunal for hearing on 18.05.2020, however, as per the cause-list of the Tribunal, the report of the NGT Committee was not received. Accordingly, the matters were listed for hearing on 01.06.2020.
19.05.2020	This Hon’ble Court while considering the civil appeal filed by the Appellant against the Order dated 08.05.2020 (passed by the Tribunal), granted liberty to the Appellant to raise appropriate contentions during the next hearing before the Tribunal.
19.05.2020	The District Magistrate filed an ‘Action Taken Report’, in Suo Moto WP (PIL) No. 112 of 2020, before the High Court. The said report <i>inter alia</i> listed the various committees which

	had been formed by the different authorities to inquire into the Incident and also noted that after the receipt of reports from the different committees, a detailed affidavit would be filed before the High Court.
22.05.2020	All three public interest petitions (namely, Suo Moto WP (PIL) 112 of 2020, WP (PIL) 117 of 2020 and 119 of 2020) were listed before the High Court for hearing. The High Court <i>inter alia</i> directed that the premises of the Appellant be seized and no person be permitted to enter it.
25.05.2020	The Appellant preferred a Special Leave Petition, being S.L.P (C) (D) No. 11636 of 2020, before this Hon'ble Court, challenging the directions issued by the High Court in its Order dated 22.05.2020.
26.05.2020	This Hon'ble Court, upon hearing the aforementioned Special Leave Petition filed against the Order dated 22.05.2020 passed by the High Court, as an ad-interim measure, granted emergency access to 30 personnel of the Appellant to enter the Plant for the purposes of ensuring adequate safety measures.
27.05.2020	In view of the liberty given to the Appellant by this Hon'ble Court, to raise all its objections before the Tribunal (by way of order dated 19.05.2020), the Appellant filed a review and

	recall application, being R.A. No. 19 of 2020 in Original Application No. 73 of 2020, before the Tribunal. By way of the same, the Appellant sought review or recall of the order dated 08.05.2020 <i>vide</i> which the Tribunal took <i>suo moto</i> cognizance of the Incident and constituted the NGT Committee to conduct inquiry into the Incident.
27.05.2020	In terms of the direction of this Hon'ble Court, the Appellant submitted a letter dated 26.05.2020 to the District Magistrate a list of 30 persons who ought to be permitted to enter the premises. Despite the time bound directions of this Hon'ble Court, the District Magistrate only gave the permission on 27.05.2020 to 30 persons to enter the premises, although the order was dated 26.05.2020. Even this belatedly issued order by the District Magistrate was revised within a couple of hours of being handed over to the Appellant. For reasons best known to the District Magistrate, <i>vide</i> the revised order, the names of the legal officer of the Appellant from the list of 30 persons to be permitted to enter the premises was replaced. Like the first order, the revised order was also dated back to 26.05.2020.
27.05.2020	An original application, filed by the Centre for Wildlife and Environment Litigation

	<p>Foundation was listed before the NGT, Southern Bench. The said original application was found to raise issues similar to the one which were the subject matter of the pending <i>suo moto</i> proceedings before the Tribunal. The NGT, Southern Bench directed the transfer of the application to the Principal Bench. Pursuant to the transfer, the said original application was renumbered as O.A. 80 of 2020.</p>
28.05.2020	<p>A report titled as “<i>Report of the Joint Monitoring Committee constituted by the Hon’ble NGT, Principal Bench, New Delhi as per order dated 08.05.2020 in the matter of O.A. No. 73 of 2020</i>” (“<b>Subsequent Report</b>”), submitted by the NGT Committee, was uploaded on the official website of the Tribunal.</p>
01.06.2020	<p>Original Application No. 73 of 2020, Review Application No. 19 of 2020 in Original Application No. 73 of 2020, Original Application No. 76 of 2020 and Original Application No. 80 of 2020 were listed for hearing before the Tribunal.</p>
01.06.2020	<p>The Appellant filed an affidavit before the Tribunal bringing on record various difficulties being faced by it including seizure of the Plant, as a result of which the Appellant was not in</p>

	position to file any response before the Tribunal.
01.06.2020	A copy of the Impugned Order dated 01.06.2020 was uploaded on the website of the Tribunal on 03.06.2020 and subsequently, a further corrected order was uploaded on 04.06.2020. By way the same, the Tribunal observed that “ <i>we find the company has strict and absolute liability for the environmental damage and consequential loss including to life and public health in this case</i> ”. Additionally, the Tribunal <i>inter alia</i> directed that the interim compensation amount of INR 50 crores, deposited by the Appellant with the District Magistrate was to be appropriated and spent for restoration of the environment and compensation for the victims. In addition to the above, the Tribunal concluded that it was vested with jurisdiction to initiate proceedings suo-moto. Additionally, the Tribunal failed to afford the Appellant an opportunity to respond to the Interim Report and the Subsequent Report.
23.06.2020	That being aggrieved by the Impugned Order, the Appellant is preferring the present civil appeal.

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO. \_\_\_\_\_ OF 2020**

(APPEAL UNDER SECTION 22 OF THE NATIONAL  
GREEN TRIBUNAL ACT 2010)

**[ARISING OUT OF THE IMPUGNED ORDER DATED  
01.06.2020 PASSED BY THE NATIONAL GREEN  
TRIBUNAL, PRINCIPAL BENCH, NEW DELHI, IN  
ORIGINAL APPLICATION NO.73 OF 2020]**

<b><u>IN THE MATTER OF:</u></b>	<b><u>POSITION OF PARTIES</u></b>	
	<b>Before the Hon'ble NGT, Principal Bench, New Delhi</b>	<b>Before this Hon'ble Court</b>
<b>1. LG POLYMERS INDIA PRIVATE LIMITED</b>	Respondent	Appellant
A company incorporated under the Provisions of Companies Act, 1956, having its registered office at		

RR Venkatapuram Village,  
 Pendurti Mandal,  
 Vishakhapatnam,  
 Andhra Pradesh - 530029  
 Through its Authorised  
 Signatory

**VERSUS**

- |  |                   |   |
|--|-------------------|---|
| <p><b>1. ANDHRA PRADESH<br/>         POLLUTION CONTROL<br/>         BOARD</b></p> <p>Statutory authority<br/>         exercising powers under the<br/>         Water (Prevention and<br/>         Control of Pollution) Act,<br/>         1974 and the Air (Prevention<br/>         and Control of Pollution)<br/>         Act, 1981 having its office at<br/>         D. No. 33-26-14 D/2, Near<br/>         Sunrise Hospital, Pushpa<br/>         Hotel Centre, Chalamalavari<br/>         Street, Kasturibaipet,<br/>         Vijayawada, Andhra Pradesh<br/>         520 010</p> <p>Through its Chairman</p> | <p>Respondent</p> | <p>Contesting<br/>         Respondent<br/>         No 1</p> |
|--|-------------------|---|

- |  |                                |  |
|--|--------------------------------|--|
| <p><b>2. COLLECTOR<br/>DISTRICT<br/>MAGISTRATE,<br/>VISHAKHAPATNAM</b><br/>Main Rd, Krishnagar,<br/>Krishna Nagar, Maharani<br/>Peta,<br/>Visakhapatnam,<br/>Andhra Pradesh 530002</p>   | <p><b>&amp;</b> Respondent</p> | <p>Contesting<br/>Respondent<br/>No. 2</p> |
| <p><b>3. CENTRAL POLLUTION<br/>CONTROL BOARD</b><br/>Statutory authority<br/>exercising powers under the<br/>Water (Prevention and<br/>Control of Pollution) Act,<br/>1974 and the Air (Prevention<br/>and Control of Pollution)<br/>Act, 1981 having its office at<br/>Parivesh Bhawan, East Arjun<br/>Nagar, Delhi – 110032.<br/>Through its Chairman.</p> | <p>Respondent</p>              | <p>Contesting<br/>Respondent<br/>No. 3</p> |
| <p><b>4. UNION OF INDIA</b><br/>Ministry of Environment,<br/>Forest and Climate Change<br/>Government of India</p>   | <p>Respondent</p>              | <p>Contesting<br/>Respondent<br/>No. 4</p> |

Through Secretary,  
Indira Paryavaran Bhavan  
Jorbagh Road,  
New Delhi - 110003

**APPEAL UNDER SECTION 22 OF THE NATIONAL  
GREEN TRIBUNAL ACT, 2010 AGAINST THE  
IMPUGNED ORDER DATED 01.06.2020 PASSED BY  
THE NATIONAL GREEN TRIBUNAL, PRINCIPAL  
BENCH, NEW DELHI IN ORIGINAL APPLICATION  
NO.73 OF 2020**

TO

THE HON'BLE CHIEF JUSTICE OF INDIA  
AND HIS OTHER COMPANION JUDGES OF  
THE HON'BLE SUPREME COURT OF INDIA

THE HUMBLE APPEAL OF  
THE APPELLANT ABOVE  
NAMED

**MOST RESPECTFULLY SHEWETH:**

1. The Appellant is preferring the present Civil Appeal under Section 22 of the National Green Tribunal Act, 2010 (“**NGT Act**”) against the Order dated 01.06.2020 (“**Impugned Order**”), passed by the National Green Tribunal, Principal Bench at New Delhi (“**the Tribunal**”) *inter-alia* In Re: Gas Leak at LG Polymers Chemical Plant in RR Venkatapuram

Village in Andhra Pradesh, being the Original Application No. 73 of 2020. The Impugned Order arises out of *suo moto* cognizance taken by the Tribunal of a vapour release of styrene monomer incident at the Appellant's chemical plant situated in RR Venkatapuram Village in Andhra Pradesh ("**the Incident**"). By way of the Impugned Order, the Tribunal upon concluding that the material on record purportedly establishes the strict and absolute liability of the Appellant, has *inter-alia* passed the following directions ("**NGT Directions**"):

- (a) That the interim compensation amount of INR 50 crores, deposited by the Appellant with the District Collector and Magistrate, Vishakhapatnam, pursuant to the Order of the Tribunal dated 08.05.2020, will be appropriated towards part liability and interim compensation to be spent for restoration of the environment and compensation for the victims in accordance with a restoration plan. The said plan is to be prepared within two months by a committee comprising of two representatives from Ministry of Environment, Forests and Climate Change ("**MoEF**") and Central Pollution Control Board ("**CPCB**") and three representatives of the Government of Andhra Pradesh ("**GoAP**");
- (b) The final quantification of compensation may be assessed by a committee comprising of representatives from MoEF, CPCB and National Environmental Engineering Research Institute ("**NEERI**") and a report to that effect may be given in two months. Such committee will be at liberty to

associate/co-opt any other expert institution(s) or individual(s).

(c) The Chief Secretary, GoAP may identify and take appropriate action against persons responsible for permitting the Appellant to operate without statutory clearances and a report to that effect is to be submitted to the Tribunal within two months.

(d) The MoEF may constitute an expert committee to suggest ways and means to revamp monitoring mechanism to check and prevent violation of environmental norms or similar incidents.

It is most respectfully submitted that the proceedings culminating in the Impugned Order have been initiated wholly without jurisdiction and consequently, the Impugned Order is liable to be set aside by this Hon'ble Court. In this regard, it is most respectfully submitted that the Tribunal had initiated the proceedings *suo- moto*. Whilst initiating the proceedings *suo moto* and whilst passing the Impugned Order, the Tribunal has failed to appreciate that under the provisions of the National Green Tribunal Act, 2010 (“**the NGT Act**”), the Tribunal was not empowered to initiate proceedings *suo- moto*. It is humbly submitted that being a creation of the NGT Act, the Tribunal is bound to act within the four corners of the said statute and cannot exceed the powers vested in it thereunder. However, by *suo- moto* initiating the present proceedings against the Appellant and by passing the Impugned Order, the Tribunal has completely failed to appreciate this basic legal framework.

Additionally, the Tribunal in its Impugned Order has placed reliance on the interim report dated 17.05.2020 and the final report dated 28.05.2020 submitted by the NGT Committee. It is submitted that the Tribunal acted in undue haste and passed the Impugned Order without granting the Appellant an opportunity to respond to the findings in such reports. It is submitted that the Hon'ble High Court of Andhra Pradesh vide its order dated 22.05.2020 in Suo Moto WP (PIL) No. 112 of 2020, WP (PIL) Nos.117 and 119 of 2020 had directed the Plant of the Appellant be seized. Resultantly, the Appellant had very limited access to its plant and hence could not respond to the findings of such reports. This fact was duly brought to the knowledge of the Tribunal by the Appellant both during the hearing on 01.06.2020 as well as by way of affidavit dated 01.06.2020. However, the Tribunal has failed to appreciate the same and has passed the Impugned Order. Additionally, the Tribunal has placed reliance on affidavits filed by Respondent Nos. 1 & 4 in its Impugned Order. It is submitted that the affidavit filed by the Respondent No. 4 was uploaded in the official website of the Tribunal only during the evening of 29.05.2020 (Saturday) i.e. two days before the hearing dated 01.06.2020 (Monday). The Appellant learnt about the filing of such Affidavit by the Respondent No. 1 before the Tribunal only through the Impugned Order and copy of such affidavit has not been shared with the Appellant. In view of the above, the Impugned Order suffers from violation of principles of natural justice.

2. **QUESTIONS OF LAW:**

That the following substantial questions of law arise in the instant Appeal for the kind consideration of this Hon'ble Court:-

- A. Whether the Tribunal has the power to initiate proceedings *suo moto*?
- B. Whether a post facto event (filing of petitions in the present case) can legalise an act already done without the authority of law?
- C. Whether post facto filing of petitions can vest the Tribunal with jurisdiction, when the proceedings at the first instance were initiated without jurisdiction?
- D. Whether the powers vested in the NGT in relation to environment issues can be equated with the powers in constitutional courts?
- E. Whether the Impugned Order is bad in law on account of failure of the Tribunal to grant an opportunity to the Appellant to respond to the reports submitted by the NGT Committee?
- F. Whether the Tribunal has acted in contravention of the provisions of Section 19 of the NGT Act by not permitting the Appellant to file its response to (i) the

reports submitted by the NGT Committee and (ii) the Affidavits filed by the Respondent Nos. 1 and 4?

G. Whether the Tribunal is solely empowered to determine issues of compensation in relation to environment matters?

H. Whether the Tribunal erred in law by holding the Appellant liable for the Incident basis the reports of the NGT Committee alone?

I. Whether the Tribunal was correct to hold that the Appellant was strictly and absolutely liable for the Incident without even hearing the Appellant?

J. Whether it was incumbent on the Tribunal to stay the present proceedings in view of the fact that identical issues were pending adjudication before the Hon'ble High Court of Andhra Pradesh?

### **3. PARTIES**

(a) The Appellant is a company incorporated under the Companies Act, 1956 having its registered address and plant at Survey Nos. 29 to 45, 83/1 and 83/3 of R. R. Venkatapuram Village, Pendurthi Mandal,

Vishakhapatnam District (“**Plant**”). The Plant was originally established in 1961 as Hindustan Polymers. Thereafter in 1978, Hindustan Polymers merged with M/s Mc Dowell & Co Ltd. of the UB Group. Pursuant thereto, Hindustan Polymers was renamed as LG Polymers India Private Limited in July, 1997, in view of the takeover of Hindustan Polymers by the LG Chemicals of South Korea. The Appellant is one of the leading manufacturers of polystyrene and expandable polystyrene in India.

- (b) The Respondent Nos. 1 to 4 are the various state authorities or other stake holders involved in the enforcement and execution of environmental laws in the country. The Respondents also include the relevant ministerial department of the State of Andhra Pradesh and the Government of India.

#### 4. **BACKGROUND FACTS**

It is submitted that the present proceedings arise from *inter alia* the following facts:

- (a) In March 2020, following the COVID-19 outbreak, both the Central Government and the Government of Andhra Pradesh imposed various restrictions on the operations of manufacturing units such as that of the Appellant, through various notifications under the Disaster Management Act 2005, the Epidemic Diseases Act, 1897 and the Code of

Criminal Procedure 1973. In this regard, on 24.03.2020, the National Executive Committee of the National Disaster Management Authority (“**NDMA**”) issued guidelines imposing a complete lockdown throughout the country for a period of 21 days (“**Lockdown**”). Pursuant to the same, all commercial, private and industrial establishments were directed to remain closed (including that of the Appellant). All activities not specifically permitted under the said guidelines were prohibited.

- (b) Owing to the imposition of lockdown, on 24.03.2020, the Appellant submitted a letter dated 23.03.2020 to the Collector and District Magistrate, Visakhapatnam (“**District Magistrate**”) explaining that it was operating a petrochemical plant (requiring a continuous process of production) and that halting those operations could cause auto-polymerization and explosion. Accordingly, the Appellant requested for permission to operate the plant with a skeletal staff, given the nature of the industry. However, the Appellant did not receive a response to this letter.
- (c) As the Appellant did not receive any response from the office of the District Magistrate, another letter was issued on 28.03.2020 by the Appellant to the office of the District Magistrate apprising that hazardous chemicals are being stored in the tank farm at the Plant, which required close monitoring. Accordingly, the Appellant asked for 60 emergency passes to deploy staff at the Plant for round the

clock monitoring of the raw materials. While the Appellant did not receive any response to this letter, the Appellant obtained 45 passes for the purpose of round the clock monitoring of the Plant.

- (d) On 14.04.2020, the Ministry of Home Affairs (“MHA”) directed the extension of the Lockdown for a further period of 19 days. Thereafter, the Lockdown was extended by a further period of two weeks by an Order issued by the MHA on 01.05.2020. However, pursuant to the said extension, the Country was divided into different zones (being ‘red’, ‘orange’ and ‘green’), by the MHA depending on the number of COVID-19 cases in a particular district. In green and orange zones, activities which were not specifically prohibited, were permitted to be carried out. Vishakhapatnam District (where the Plant is located) was categorized as an ‘orange zone’ district by the MHA. As a result, all activities not specifically prohibited (including the manufacturing activities of the Appellant) were allowed to recommence in the said district from 04.05.2020.
- (e) In view of the said relaxations in the Lockdown restrictions, the Appellant proposed to reopen the Plant to recommence manufacturing operations. To this effect, an email dated 04.05.2020 was issued by the Appellant to the District Magistrate. By way of the said email, the Appellant undertook that it would take all the requisite precautions and safety measures to contain the spread of COVID-19.

- (f) Before the plant could be reopened, during the early hours of 07.05.2020, at around 3 AM, the Incident took place at the Plant. The leak occurred at the styrene monomer storage tank No. M6, located in the Plant. The Appellant took immediate measures to curtail any adverse effects of the Incident within and around the Plant. Its efforts prevented any fire or explosion, which are the known risks of styrene monomer. Moreover, in order to determine the cause of the Incident and to ensure appropriate safety measures, the Appellant immediately commenced an internal investigation. Additionally, various governmental authorities also commenced similar investigations pertaining to the Incident.
- (g) Pursuant to the Incident, at around 7 A.M. on the same day, i.e. on 07.05.2020, a First Information Report bearing No. 213 / 2020 ("**FIR**") was registered at the Gopalapatnam Police Station, basis the complaint of one Mr. M. V. Subba Rao, against 'LG Polymers, Management' under Sections 278, 284, 285, 377, 338 and 304 - II of the Indian Penal Code 1860 ("**IPC**").
- (h) In response to the Incident, on the same day, a Press Release ("**Press Release**") was issued by the Prime Minister's Office, stating that a team from the Chemical, Biological, Radiological and Nuclear unit ("**CBRN**") of National Disaster Response Force along with an expert team of

NEERI was designated to visit Vishakhapatnam “*to support the State Government in the management of the crisis on the ground.*” (“**Central Government Committee**”).

- (i) Additionally on the same day, the National Human Rights Commission (“**NHRC**”) issued a press release stating that it had taken *suo moto* cognizance of the Incident based on media reports. The Chief Secretary, GoAP, was called upon to submit a detailed report in the matter, including on the “*status of the rescue operation, medical treatment provided to the people fallen sick and relief and rehabilitation provided by the state authorities to the affected families.*” The NHRC also issued a notice to the Director General of Police, Andhra Pradesh about the registration of FIRs in the matter and the status of investigations being conducted. The NHRC also requested the Secretary, Ministry of Corporate Affairs “*to examine whether the norms laid down under relevant provisions of the law are being implemented at the particular industrial unit and to submit a report to the Commission.*” (“**NHRC Directions**”).
- (j) In order to review the situation after the Incident, a review meeting was conducted on 07.05.2020 by a Group of Ministers of the GoAP, with the Chief Secretary to the GoAP and the District Administration, Vishakhapatnam, at the Collector’s Office, Visakhapatnam. In the said meeting, instructions were issued to constitute an internal committee to verify whether appropriate procedure is being followed

in the industry (i.e. at the Plant). Accordingly, the District Magistrate issued an Order dated 07.05.2020 constituting an internal committee (“**Internal Committee**”) to verify whether the “*procedure is being followed in the industry*” (i.e. at the Plant of the Appellant). The District Magistrate directed the Internal Committee to inspect the Plant of the Appellant immediately and keep the district administration informed.

- (k) In addition to the above, the Chief Secretary, GoAP also directed the constitution of a (i) committee of four professors of Andhra University from the academic side to study the scenario and advise the district administration; (ii) committee to check for leakages every hour; (iii) committee for testing of food grains, millets and pulses in vicinity of the Plant; (iv) committee to ensure free treatment of the people affected by the Incident in the Hospital.
  
- (l) Pursuant to the incident and based on a report furnished by the Andhra Pradesh State Legal Services Authority, the Hon’ble High Court of Andhra Pradesh, at Amaravathi (“**High Court**”) took *suo moto* cognizance of the Incident *vide* its Order dated 07.05.2020, in *Suo Moto* WP (PIL) No. 112 of 2020. By way of the same Order, the High Court *inter alia* directed the constitution of a committee of appropriate officers for reporting steps taken in relation to the Incident.

- (m) Pursuant to the Order of the High Court dated 07.05.2020, passed in the *Suo Moto* WP (PIL) No. 112 of 2020, the GoAP issued a Government Order bearing No. G.O. RT. No. 803 dated 08.05.2020 (“**G.O. 803**”) for the constitution of a high powered committee “*to probe into the cause behind the gas leak and to take stock of the recovery steps being taken in response to the incident.*” (“**High Power Committee**”).
- (n) On the same day, i.e. on 08.05.2020, a public interest litigation, being *Rapolu Bhaskar v The State of Andhra Pradesh & Ors.*, W.P (PIL) No. 117 of 2020 was preferred before the High Court. By way of the said petition, the petitioner therein, *inter-alia* sought directions to be issued to the Appellant to give compensation of (i) INR 2 crores to the deceased families, (ii) INR 50 lakhs to every injured person(s), (iii) INR 50,000/- for the deceased cattle and (iv) INR 5,00,000/- to the farmers, whose standing crops had been destroyed.
- (o) Further, on 08.05.2020, the Tribunal took *suo moto* cognizance of the Incident on the basis of certain media reports. By way of its Order dated 08.05.2020 in O.A. No. 73 of 2020, the Tribunal issued ‘Notice’ to the Respondent Nos. 1 to 4 in the present Appeal and the Appellant. Further, the Appellant and the Respondent Nos. 1 to 4 were directed to file response(s), if any, before the next date of hearing i.e. 18.05.2020. The Appellant has till date not received the

notice from the Tribunal. By way of the said Order, the following directions were also passed by the Tribunal:

- (i) A six-member committee was to be constituted for conducting a fact finding inquiry in relation to the Incident, (“**NGT Committee**”). The committee was directed to report on the following:
  - a. The sequence of events;
  - b. Causes of failure and persons and authorities responsible;
  - c. Extent of damage to life, human and non-human; public health; and environment – including, water, soil, air;
  - d. Steps to be taken for compensation of victims and restitution of the damaged property and environment, and the cost involved;
  - e. Remedial measures to prevent recurrence;
  - f. Any other incidental or allied issues found relevant; and
- (ii) The deposit of an ‘initial’ amount of INR 50 crores was to be made by the Appellant with the District Magistrate. A true and typed copy of the order dated 08.05.2020 passed by the National Green Tribunal, Principal Bench, New Delhi, in O.A. No. 73 of 2020 is annexed herewith and marked as **ANNEXURE “A-1”** (At page 125 to 135).

- (p) On 11.05.2020, a public interest litigation, being *Ramakumar Sabbavarapu v. The Union of India & Ors.*, WP (PIL) No. 119 of 2020 was filed before the High Court, *inter alia* seeking payment of compensation by the Appellant.
- (q) An application by one EAS Sarma, being O.A. No. 68 of 2020 (SZ) came to be filed before the NGT, Southern Bench at Chennai (“**NGT, Southern Bench**”). The NGT, Southern Bench, *vide* its order dated 13.05.2020 transferred the matter to the Principal Bench of the NGT to be heard along with the *suo moto* proceedings i.e. O.A. No. 73 of 2020, which was already pending.
- (r) The Appellant, being aggrieved *inter-alia* by (i) initiation of *suo motu* proceedings by the Tribunal and (ii) the constitution of NGT Committee, was constrained to file a civil appeal under Section 22 of the NGT Act, being Civil Appeal (D) No. 11327 of 2020 against the order dated 08.05.2020, passed by the Tribunal, which is presently pending before this Hon’ble Court. Without prejudice to the Appellant’s right to challenge the order dated 08.05.2020 issued by the Tribunal, the Appellant deposited an initial amount of INR 50 Crores with the District Magistrate, Visakhapatnam on 15.05.2020.

- (s) Subsequent to the filing of the aforementioned appeal, the NGT Committee submitted a report titled as “*Interim Report of NGT Committee on Gas Leak of Styrene in LG Polymers India Pvt Ltd.*” (“**Interim Report**”), dated 17.05.2020, before the Tribunal. The said report *inter alia* dealt with the sequence of events leading to the Incident, causes of failure, authorities responsible for failure, remedial measures to prevent recurrence and incidental issues. A true and typed copy of the Interim Report (without annexures) dated 17.05.2020 titled as “*Interim Report of NGT Committee on Gas Leak of Styrene in LG Polymers India Pvt Ltd*” filed before the National Green Tribunal, Principal Bench, New Delhi, in O.A. No. 73 of 2020 is annexed herewith and marked as **ANNEXURE “A-2”** (At page 136 to 161).
- (t) The *suo moto* proceedings were to be listed before the Tribunal for hearing on 18.05.2020, however, as per the cause list of the Tribunal, the report of the NGT Committee was not received by the Tribunal. Accordingly, the matters were listed for hearing on 01.06.2020. A true copy of the cause list dated 18.05.2020 of the National Green Tribunal, Principal Bench, New Delhi is annexed herewith and marked as **ANNEXURE “A-3 ”** (At page 162).
- (u) On 19.05.2020, the District Magistrate filed ‘Action Taken Report’, in WP (PIL) No. 112 of 2020 (i.e. the *suo moto*

proceedings) (“**the Report**”). The Report *inter-alia* listed the various committees which had been formed by the different authorities to inquire into the Incident and also noted that after the reports from the different committees, a detailed affidavit would be filed before the High Court.

- (v) On 19.05.2020, this Hon’ble Court while considering the Appellant’s civil appeal, being Civil Appeal (D) No. 11327 of 2020, granted liberty to the Appellant to raise appropriate contentions during the next hearing before the Tribunal. A true and typed copy of the Order dated 19.05.2020 passed by this Hon’ble Court in Civil Appeal (D) No. 11327 of 2020 is annexed herewith and marked as ANNEXURE “A-4” (At page 163 to 170).
  
- (w) The Public Interest Litigation, being WP (PIL) No. 119 of 2020 was listed before the High Court for hearing on 20.05.2020 and the same was directed to be listed along with the Suo Moto WP (PIL) No. 112 of 2020 (i.e. the *suo moto* proceedings) and WP (PIL) No. 117 of 2020. During the said hearing, after briefly hearing the parties, the High Court directed Appellant to file an affidavit in response to certain queries that were raised during the course of the said hearing.
  
- (x) Thereafter, on 22.05.2020, all the three petitions i.e. Suo Moto WP (PIL) No. 112 of 2020, WP (PIL) Nos. 117 of 2020 and 119 of 2020 were listed before the High Court.

After briefly hearing the parties, the High Court by its order of even date *inter alia* directed that:

- (i) The Plant of the Appellant be seized and no person be permitted to enter it;
- (ii) The assets of the Appellant (movable or immovable) not be shifted without the leave of the High Court.

The High Court further directed the Central Government, the State Government to apprise the High Court as to which Committee shall fulfill the purpose to answer all issues in the matter. This direction was passed in view of the multiplicity of investigations pending before multiple committees / bodies.

- (y) The order dated 22.05.2020 resulted in grave prejudice to the Appellant, as the Appellant did not have access to the Plant premises since 22.05.2020 onwards. The sealing of the plant hindered the efforts of the Appellant in sincerely extending its cooperation to multiple committees constituted for the purpose of investigating into and determining the causal effect of the Incident. The High Court failed to appreciate that the corporate, legal and administrative offices of the Appellant are also located within the plant, which also were out of bounds for the Appellant. Further, all the material documents / information pertaining to the operations of the Appellant were in the premises of the Plant. In the absence of access to the Plant, the Appellant was and continues to be severely handicapped

from preparing effective responses to the various ongoing inquiries. Moreover, given that the Plant had been seized, the Appellant was not in a position to undertake requisite safety measures at the Plant either, which was essential given the presence of other hazardous gases at the plant and also finished products requiring special refrigeration and oversight.

- (z) Consequently, on 25.05.2020 the Appellant was constrained to approach this Hon'ble Court by way of a Special Leave Petition, being S.L.P (C) (D) No. 11636 of 2020, challenging the directions issued by the High Court in its Order dated 22.05.2020. The said petition came to be listed before this Hon'ble Court on 26.05.2020. This Hon'ble Court granted an *ad interim* relief to the Appellant, wherein the Appellant was directed to submit to the District Magistrate, a list of 30 personnel who would be permitted to enter the plant for the purposes of ensuring adequate safety measures.
  
- (aa) In terms of the aforementioned directions of this Hon'ble Court, the Appellant submitted a letter dated 26.05.2020 to the District Magistrate a list of 30 persons who ought to be permitted to enter the premises. Despite the time bound directions of this Hon'ble Court, the District Magistrate only gave the permission on 27.05.2020 to 30 persons to enter the premises, although the order was dated 26.05.2020. Even this belatedly issued order by the District

Magistrate was revised within a couple of hours of being handed over to the Appellant. For reasons best known to the District Magistrate, *vide* the revised order, the names of the legal officer of the Appellant from the list of 30 persons to be permitted to enter the premises was replaced. Like the first order, the revised order was also dated back to 26.05.2020. It was only on 27.05.2020 that the personnel of the Appellant could enter the Plant, that too only for ensuring adequate safety measures.

- (bb) At this juncture, it would be relevant to reiterate that in view of the Order dated 22.05.2020 till 27.05.2020, the Appellant did not even have access to the Plant, let alone full access to its records present in the Plant. Therefore, owing to the said difficulty, it was unable to file any response to the Interim Report or the Subsequent Report. Moreover, even on 26.05.2020, this Hon'ble Court permitted the Appellant to send only 30 of its personnel into the Plant, to ensure safety of the Plant. Therefore, even after 27.05.2020, the Appellant remained unable to fully access to its records, which were lying inside the plant. Moreover, given the complexity of the matter and the issue at hand, even the advisors of the Appellant (including relevant subject matter experts) were unable to travel to the plant due to the government imposed restrictions on account of COVID-19. Hence, the Appellant was not in a position to file any response to the Interim Report and the Subsequent Report. The said factors were completely beyond the Appellant's control.

- (cc) The Appellant, on 27.05.2020, in view of the directions passed by this Hon'ble Court in the order dated 19.05.2020, filed an application for review and recall of the order dated 08.05.2020, passed by the Tribunal in Original Application No. 73 of 2020. The said application for review and recall of the order dated 08.05.2020 later got numbered as Review Application No. 19 of 2020 in Original Application No. 73 of 2020. A true copy of the application dated 22.05.2020 filed by the Appellant before by the National Green Tribunal, Principal Bench, New Delhi (without annexures) seeking review of the order dated 08.05.2020 passed in OA No. 73 of 2020 is annexed herewith and marked as **ANNEXURE "A-5"** (At page 171 to 183).
- (dd) In the meanwhile, an original application being O.A. No. 73 of 2020 was filed by the Centre for Wildlife and Environment Litigation Foundation before the NGT, Southern Bench at the Chennai. The NGT, Southern Bench by its Order dated 27.05.2020 directed the transfer of the said application also to the Tribunal to be listed along with the *suo moto* proceedings.
- (ee) Thereafter, on 28.05.2020 (Thursday), the NGT Committee submitted another report titled as "*Report of the Joint Monitoring Committee constituted by the Hon'ble NGT, Principal Bench, New Delhi as per order dated 08.05.2020 in the matter of O.A. No. 73 of 2020*" ("**Subsequent**

**Report**”), dated 28.05.2020, before the Tribunal. The Subsequent Report was uploaded on the official website of the NGT on 28.05.2020. A true and typed copy of the report dated 28.05.2020 (with relevant annexures) titled “*Report of the Joint Monitoring Committee constituted by the Hon’ble NGT, Principal Bench, New Delhi as per order dated 08.05.2020 in the matter of O.A. No. 73 of 2020*” filed before the National Green Tribunal, Principal Bench, New Delhi, in O.A. No. 73 of 2020 is annexed herewith and marked as **ANNEXURE “A-6”** (At page 184 to 294 ).

- (ff) On 01.06.2020, Original Application No. 73 of 2020, Review Application No. 19 of 2020 in Original Application No. 73 of 2020, Original Application No. 76 of 2020 and Original Application No. 80 of 2020 were listed before the Tribunal. During the said hearing, the Appellant highlighted the difficulties being faced by it in responding the Interim Report and the Subsequent Report and requested the Tribunal for further time to file its response(s).
- (gg) The Appellant post conclusion of the hearing on 01.06.2020 itself filed an affidavit before the Tribunal bringing on record the difficulties being faced by it as a result of which it was prevented from filing a response to the reports filed by the NGT Committee. A true copy of the affidavit dated 01.06.2020 filed by the Appellant before the National Green Tribunal, Principal Bench, New Delhi in O.A. No. 73 of

2020 is annexed herewith and marked as ANNEXURE “A-7” (At page 295 to 304 ).

(hh) Thereafter, the Tribunal passed the Impugned Order, which was dated 01.06.2020, however was only uploaded on the website of the Tribunal on 03.06.2020 with a further corrected order uploaded on 04.06.2020. In the Impugned Order the Tribunal has held that it has the power to suo moto initiate proceedings. Further, the Tribunal, on the basis of reports furnished by the NGT Committee, has the Appellant to be liable for the Incident. The Tribunal *inter-alia* passed the following directions :

(i) That the interim compensation amount of INR 50 crores, deposited by the Appellant with the District Collector and Magistrate, Vishakhapatnam, pursuant to the Order of the Tribunal dated 08.05.2020, will be appropriated towards part liability and interim compensation to be spent for restoration of the environment and compensation for the victims in accordance with a restoration plan. The said plan is to be prepared within two months by a committee comprising of two representatives from Ministry of Environment, Forests and Climate Change (“MoEF”) and Central Pollution Control Board (“CPCB”) and three representatives of the Government of Andhra Pradesh (“GoAP”);

(ii) The final quantification of compensation may be assessed by a committee comprising of

representatives from MoEF, CPCB and National Environmental Engineering Research Institute (“**NEERI**”) and a report to that effect may be given in two months. Such committee will be at liberty to associate/co-opt any other expert institution(s) or individual(s).

(iii) The Chief Secretary, GoAP may identify and take appropriate action against persons responsible for permitting the Appellant to operate without statutory clearances and a report to that effect to be submitted to the Tribunal within two months.

(iv) The MoEF may constitute an expert committee to suggest ways and means to revamp monitoring mechanism to check and prevent violation of environmental norms or similar incidents.

It is humbly submitted that the affidavit filed by the Respondent No.4 was uploaded on the website of the Tribunal on 29.05.2020. It is humbly submitted that from a perusal of the Impugned Order, the Appellant learnt that the Respondent No. 1 had filed certain Affidavit before the Tribunal, which has been relied upon in the Impugned Order. The said Affidavit had not even been supplied to the Appellant.

(ii) In fact, with all the restrictions in place and the limited records available to the Appellant, the Appellant with a view to identify the root cause of the Incident retained

globally renowned experts to assist it in deciphering this unprecedented event.

- (jj) While the experts have not been able to access the plant due to the restrictions described above, with the limited information made available to them, following is the view emanating on the likely root cause of the incident and its impact:
- i. The release of styrene vapour on 07.05.2020 was an unexpected and unprecedented short term event, which was mitigated within 24 hours of onset by the Appellant;
  - ii. Styrene monomer is the principal raw material for the products manufactured at the Plant. Styrene monomer has a tendency to polymerize, which is not desirable from a quality and safety perspective. The auto-polymerization of Styrene monomer (enhanced due to prolonged stagnation) could result in tank failures followed by a fire and explosion.
  - iii. Keeping in view the continuous nature of its operations and the chemical properties of Styrene monomer, the Appellant did seek permission to run limited production at the plant alerting the authorities to the likely risk associated with stagnation of styrene, the permission to run the plant (albeit on a limited basis) was denied.
  - iv. The government imposed lockdown directives prevented production at the plant and, hence,

additions and discharges of styrene were also prevented. Therefore, these directives immediately imposed an unprecedented condition of prolonged stagnation of the styrene monomer in the M6 tank, which was unanticipated as the tank was intended to be used as a “running tank” with routine additions to and outflows from the tank;

- v. The Appellant was required, by the shutdown order, to manage the storage of thousands of metric tons of Styrene monomer, across four large tanks, for an unprecedented 45-days, with limited personnel and limited resources, and with its warnings about the risks and dangers ignored or rejected; despite all that, the Appellant undertook good-faith and reasonable efforts to manage those thousands of tons of styrene.
- vi. The Appellant continuously monitored temperature and regularly monitored all important parameters such as the polymer concentrations and inhibitor levels in each tank. Tank temperature remained well within the desired range throughout the lockdown. The inhibitor levels in the M6 tank remained well within the desired range throughout the lockdown till the day of the incident;
- vii. Neither recorded temperature nor measured inhibitor levels showed any sign of auto-polymerization;
- viii. On early hours of 07.05.2020, there was a sudden release of vapour from M6 tank.

- ix. In addition to the factors indicated at (i)-(iii) above, i.e. the unprecedented stagnation of styrene monomer due to the government imposed lockdown, other unknown factors led to the Incident.
- x. The detection of the vapor release was picked up by the gas detectors surrounding the M-6 tank alerting the on-site employees to the Incident, which resulted in the Appellant quickly taking steps to alert emergency service providers and on-site employees, taking steps to prevent further damage by turning on water sprinklers, refrigeration, circulation and cooling systems and in due course, adding chemical inhibitors. Each of these steps prevented a fire or explosion from occurring.
- xi. In over 80 years of commercial production and use, the primary safety concerns with the storage and use of styrene monomer has been ignition of flammable styrene vapors and an ensuing fire or explosion. The design of the plant, including the M6 tank, and the actions taken by the Appellant prevented a catastrophic rupture of the M6 tank, and prevented ignition of the styrene vapors and an explosion.
- xii. Styrene is short lived in the environment. It is not known to cause chronic or delayed health effects as a result of short term exposure;
- xiii. For the last 80 years, there are no reported cases of deaths on account of exposure to styrene vapour release;

- xiv. Medical information of the deceased / affected, such as blood tests, urine tests and evaluation of pre-existing conditions have to be reviewed before concluding whether the deaths / injuries were induced by exposure to styrene during the incident. The NGT Committee has not done this evaluation either.
- xv. Appellant's equipment and procedures for handling styrene monomer were appropriate and effective for safe operation of the facility and in accordance with industry standards. This is also evidenced by decades of successful operational experience without incident.

In view of the above, many of the conclusions suggested by the inquiry committees (including the NGT Committee) are presumptive, speculative, unscientific and without any foundation based on actual facts or analysis.

The Appellant craves leave to file a separate and detailed submission (if so required) rebutting each of the conclusions of the NGT Committee as the same are at best based on surmises and conjectures.

In this view of the matter, it is imperative that the Appellant be permitted to respond to the NGT

Committee reports failing which grave injustice will be caused to the Appellant for no fault of its own.

- (kk) That being aggrieved from the aforesaid Impugned Order dated 01.06.2020, the Appellant is preferring the present appeal on the following grounds amongst others.

### **GROUND**

- A. BECAUSE the Tribunal has grossly erred in failing to consider, let alone appreciate that under the provisions of the NGT Act, it is not empowered to initiate proceedings *suo moto*. In this regard, it is relevant to consider the provisions of Section 3 of the NGT Act, which provide as under:

*“3. The Central Government shall, by notification, establish, with effect from such date as may be specified therein, a Tribunal to be known as the National Green Tribunal to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Act.”*

It is manifest that the Tribunal is only permitted to exercise jurisdiction, powers and authority conferred on it under the provisions of the NGT Act, and not otherwise. The Act does not confer any power on the Tribunal to initiate proceedings *suo moto*. Hence, the *suo moto* initiation of proceedings in the present case is without the authority of law.

- B. BECAUSE Sections 14 to 16 of the NGT Act provide for powers of the Tribunal and the reliefs which may be granted by the Tribunal. Further, Section 18 provides the instances in which the Tribunal may exercise the powers provided for in Section 14 -16 of the NGT Act. It is relevant to note that while Section 18(2) *inter-alia* provides (a) any person who has sustained any injury; (b) the owner of property to which damage has been caused; (c) any person aggrieved, including any representative body or organisation or (d) the Central Government, State Government, Union Territory Administration etc. to prefer an application for grant of relief or compensation or settlement of dispute, the Tribunal has not been vested with the power to initiate proceedings *suo moto*. Therefore, from a co-joint reading of Sections 3 and 18 of the NGT Act, it is evident that the Tribunal is not empowered to initiate *suo moto* proceedings. Therefore, inasmuch as the Tribunal has held in the Impugned Order that it has the power to initiate proceedings *suo moto*, the same is bad in law.
- C. BECAUSE the Impugned Order is bad in law, inasmuch as the Tribunal has placed reliance on the contents of the ‘long-title of the Act’ and ‘the National Green Tribunal Bill, 2009’ to confer *suo moto* jurisdiction upon itself, when the provisions of the NGT Act itself do not vest such powers upon the Tribunal. Whilst placing reliance on the above, the Tribunal has concluded that it has

wide powers to deal with ‘*all civil cases where a substantial question relating to environment*’ arises. Foremost, neither the long title of the NGT Act, nor the National Green Tribunal Bill anywhere vest power in the Tribunal to initiate proceedings ‘*suo moto*’. Further, the powers of the Tribunal need to be determined from the provisions of the NGT Act and not from National Green Tribunal Bill, 2009, as has been done by the Tribunal. Hence, no useful reliance can be placed on either the ‘long-title of the Act’ or the ‘National Green Tribunal Bill, 2009’ to assume power to initiate proceedings *suo moto*.

- D. BECAUSE the Tribunal has grossly erred in placing reliance on the provisions of Section 15 of the NGT Act to hold that it has power to initiate proceedings *suo moto*. In this regard, it is most respectfully submitted that Section 15 of the NGT Act merely sets out the nature of relief, compensation and restitution that may be awarded by the Tribunal. It is submitted that such relief can only be granted by the Tribunal when it is seized of case duly instituted as per the provisions of the Act. The same cannot be used to justify initiation of proceedings *suo moto* by the Tribunal.
- E. BECAUSE, the Tribunal erred in placing reliance on the provisions of Rule 24 of the NGT Rules, in order to assume jurisdiction to initiate proceedings *suo moto*.

Relying on Rule 24 of the NGT Rules, it has been held by the Tribunal that it has the powers to pass orders or issue directions, “*as may be necessary to secure ends of justice*”. The said Rule also does not vest power with Tribunal to initiate proceedings *suo moto*. Even otherwise, it is submitted that subordinate legislation under the provisions of a statute are to be in consonance with the provisions of the statute itself and cannot travel beyond the statutory provisions. Assuming (but not admitting) that the rule confers power on the Tribunal to initiate proceedings *suo moto*, the same is contrary to the provisions of the NGT Act and hence will be liable to be struck down on this ground alone. Accordingly, if such an interpretation, as has been taken by the Tribunal is accepted, the same would render Rule 24 ultra vires the provisions of the NGT Act. Therefore, the reliance placed on Rule 24 by the NGT is erroneous.

- F. BECAUSE the Impugned Order is bad in law, inasmuch as the Tribunal has sought to vest itself with the power to initiate proceedings *suo moto* on the premise that “*The approach of a Court in dealing with the environmental issues cannot be hyper-technical, for that would defeat the ends of justice, especially in matters where right to life is implicated*”. In this regard, it is humbly submitted that issues pertaining to jurisdiction are substantive issues. Relevantly, when the legislature in its wisdom has not expressly empowered the Tribunal to initiate

proceedings *suo moto*, the Tribunal cannot by way of statutory interpretation vest such power to itself. It is submitted that issues of jurisdiction cannot be said to be hyper-technical. Accordingly, the interpretation sought to be taken by the Tribunal is liable to be rejected, inasmuch as the same would tantamount to the tribunal acting contrary to the provisions of the NGT Act.

- G. BECAUSE the Tribunal has failed to appreciate that when a statute prescribes a thing to be done in a particular manner, the same must be done in that manner alone. Thus, when the NGT Act expressly sets out the manner in which the Tribunal can exercise its jurisdiction, then the said jurisdiction must be exercised only in the manner so prescribed. Inasmuch as the Tribunal initiated proceedings *suo moto*, it has acted contrary to the provisions of the NGT Act.
- H. BECAUSE the Tribunal has erroneously placed reliance on the decision of this Hon'ble Court in *M.C. Mehta v. UOI*, (1987) 1 SCC 395, in order to confer upon itself *suo- moto* jurisdiction. It is humbly submitted that the Tribunal has placed reliance on the said decision in order to state that "*once patent violations affecting Right to Life are in public domain, the court cannot be debarred from remedying the same on the sole ground that the affected party has it [not] moved the court. The court can devise [devise] its own procedure to investigate and give relief*

*to the victims in appropriate cases.*” In this regard, it is most respectfully submitted that the decision relied upon the Tribunal relates to the constitutional powers vested in this Hon’ble Court under Article 32 of the Constitution. Neither the Constitution, nor the NGT Act vests such powers in the Tribunal. Therefore, no useful reliance can be placed on the aforementioned decision of this Hon’ble Court in order to vest the Tribunal with power to initiate proceedings *suo moto*. For the said reason as well, the Impugned Order is liable to be set aside by this Hon’ble Court.

- I. BECAUSE the Tribunal has failed to appreciate that in view of the fact that it is constituted under the provisions of the NGT Act, the powers exercised by it are distinct from the powers exercised by this Hon’ble Court and the Hon’ble High Courts, which are constitutional courts and are vested with plenary powers also. The Tribunal being a creature of the the NGT Act is not vested with such plenary powers and derives its powers only from the provisions of the NGT Act. Given that no provision under the NGT Act confers powers to initiate proceedings *suo moto*, it is does not have the authority to initiate proceedings itself.
- J. BECAUSE the Impugned Order is bad in law, inasmuch as the Tribunal whilst assuming power to initiate proceedings *suo moto* has observed that

*“Notwithstanding Constitutional jurisdiction of the High Courts, the Tribunal is not debarred from dealing with substantial issues of environment for which this Tribunal has been exclusively constituted, in the absence of express statutory provision of binding judicial decision. Any other view may seriously hamper environmental justice and scheme of parliamentary law and judgments of the Supreme Court.”* It is submitted that whilst making the above observation, the Tribunal has sought to enlarge its powers. It is submitted that a lack of any statutory provision or judicial precedent debarring it from exercising such powers, cannot by itself vest jurisdiction on the Tribunal. In the event, the said observation was taken to its logical conclusion, the Tribunal would be entitled to exercise powers upon any subject matter, unless it was specifically debarred from doing so. Accordingly, the same is not legally tenable. As elucidated above, the Tribunal being a creature of the NGT Act, has been vested with only such powers as are expressly provided for in the NGT Act.

- K. BECAUSE the Tribunal has failed to appreciate that even assuming, though not conceding that a legislative lacuna exists with regard to the scope of its powers, it cannot judicially enlarge its powers, in an attempt to fill such legislative lacuna. In this regard, it is submitted that even assuming that in order to do complete justice, the Tribunal ought to be vested with suo *moto* powers, the

Tribunal cannot simply read in such powers when the NGT Act does not provide for the same. The same would result in the Tribunal exercising powers far beyond what has been vested in it. Inasmuch as the Tribunal has failed to appreciate the above, the Impugned Order is bad in law and liable to be set aside by this Hon'ble Court.

- L. BECAUSE the reliance placed by the Tribunal on the subsequent petitions filed before it (i.e. O.A No. 76 of 2020 & 80 of 2020) to justify its initiation of proceedings suo moto is bad in law. In this regard, it is humbly submitted that the Tribunal took *suo moto* cognizance on 08.05.2020. In fact, whilst doing so, The Tribunal directed (i) the constitution of a committee to inquire into the Incident and (ii) the Appellant to deposit an amount of INR 50 crore with the District Magistrate. Therefore, the issuance of directions to constitute a committee and deposit an initial amount, all were pursuant to the *suo moto* initiation of proceedings by the Tribunal. Thereafter, only on 13.05.2020 and 27.05.2020, separate original applications came to be filed before the Tribunal. The Tribunal cannot justify its *suo moto* exercise of power and issuance of directions, by placing reliance on the post facto filing of the original applications. It is submitted that since the very initiation of proceedings is without the authority of law, any action taken thereunder cannot be justified on the ground of any post facto development. Consequently, the Impugned Order and the

underlying proceedings are without jurisdiction and are liable to be set aside by this Hon'ble Court.

- M. BECAUSE the Tribunal has failed to appreciate that if at the very first instance, the exercise of power is bad in law, then all that follows is also bad in law. In this regard, it is submitted that when the Tribunal initiated the impugned proceedings, it did so *suo moto*. At that juncture, there were no other petitions before it. As elaborated above, the said *suo moto* proceedings were without jurisdiction and were accordingly non-est. Therefore, constitution of the NGT Committee and the reports submitted by it are also without the authority of law. Hence, the Impugned Order inasmuch as the same places heavy reliance on the findings of the NGT Committee is also bad in law.
- N. BECAUSE the Tribunal has sought to justify its *suo moto* exercise of power despite the fact that it, in its own decision in *Baijnath Prajapati v. Ministry of Environment & Forests & Ors.*, NGT Appeal No. 18 of 2011, had stated that “*At the same time, it is mentionable that we are not conferred with suo moto powers to proceed with the case.*”. The said decision makes it evident that the Tribunal in past has itself acknowledged that it does not have any *suo moto* powers. Despite the same, the Tribunal is now taking a completely opposite view. Pertinently, the said decision has not even been considered by the Tribunal in its Impugned Order. On this

account as well, it is submitted that the Impugned Order and the underlying proceedings are without jurisdiction and the same are liable to be set aside by this Hon'ble Court.

- O. BECAUSE the Tribunal while passing the Impugned Order has failed to appreciate that the issue whether the Tribunal has the power to initiate *suo moto* proceedings is presently pending before this Hon'ble Court. It is submitted that in the matter of *Municipal Corporation Greater Mumbai v. Ankita Sinha & Anr.*, Civil Appeal Nos.12122-12123 of 2018, this Hon'ble Court, vide its order dated 07.01.2019, stayed the *suo moto* proceedings initiated by the Tribunal. Subsequently, in *Central Electricity Supply Utility of Odisha v. Government of India*, Civil Appeal No. 5902 of 2019, this Hon'ble Court, vide its order dated 05.08.2019 yet again stayed the *suo moto* proceedings initiated by the Tribunal. This aspect ought to have been considered by the Tribunal. However, instead of considering the same, the Tribunal has merely stated that the facts of the said cases "may" be entirely distinguishable. It is submitted that the same makes it evident that the Tribunal has proceeded with a predetermined mind to assume jurisdiction. The Tribunal has not even examined the facts of the case before observing that the facts of the said case may be distinguishable. Additionally, the said observation is not

a finding and cannot be the basis to pass an order that too on an important aspect of jurisdiction of the Tribunal.

- P. BECAUSE the Tribunal whilst holding that it has jurisdiction to initiate proceedings suo moto, has erred in relying on the fact that the Petitioner had submitted INR 50 crores in compliance with the order passed by the Tribunal. It is submitted that act of submission of amounts by the Appellant pursuant to the order passed by the Tribunal cannot vest jurisdiction on the Tribunal. It is a settled principle of law that conduct of a party cannot vest jurisdiction in an authority. The Tribunal having failed to appreciate the same has committed an error in law and the Impugned Order is therefore liable to be set aside.
- Q. BECAUSE the Impugned Order has been passed in gross violation of principles of natural justice. The Impugned Order therefore is liable to be set aside.
- R. BECAUSE the Impugned Order is bad in law, inasmuch as the same is *inter-alia* predicated on the reports issued by the NGT Committee, which committee has been constituted by the Tribunal without the authority of law. In this regard, it is most respectfully submitted that the Tribunal constituted the NGT Committee by way of its order dated 08.05.2020. The said order had been passed

by the Tribunal in O.A. No. 73 of 2020, i.e. the underlying proceedings culminating in the Impugned Order. As elucidated in the grounds above, the *suo moto* initiation of the said proceedings was wholly without jurisdiction, insofar as the Tribunal was not entitled to initiate proceedings *suo moto* under the provisions of the NGT Act. In view of the same, any orders or directions passed or actions taken by the Tribunal, pursuant to the order dated 08.05.2020 would also be considered to be wholly without jurisdiction. Therefore, the constitution of the NGT Committee by way of the Order dated 08.05.2020 was also without jurisdiction and the authority of law. Consequently, the report submitted by such committee too would be without the authority of law. Accordingly, the Tribunal could not place any useful reliance on the reports submitted by the NGT Committee. For the said reasons, insofar as the Tribunal has placed reliance on the reports submitted by the NGT Committee to arrive at its findings, the Impugned Order is bad in law and liable to be set aside by this Hon'ble Court.

- S. BECAUSE Impugned Order is bad in law, inasmuch as the Tribunal failed to allow the Appellant herein with any opportunity to respond to the Interim Report and the Subsequent Report submitted by the NGT Committee and or the Affidavits filed by the Respondent Nos. 1 & 4. It is trite that a person sought to be proceeded against should be given a fair opportunity to present its case

before the relevant authority / tribunal, in order to enable him to defend himself effectively. To this effect, it is humbly submitted that it was incumbent on the Tribunal to afford the Appellant a fair opportunity to present its response to the reports submitted by the NGT Committee and the Affidavits filed by the Respondent Nos. 1 & 4 (which form the very basis of Impugned Order). However, despite the repeated requests made in this regard by the Appellant (orally and in writing), it rejected the Appellant's request to file an appropriate response, and proceeded to pass the Impugned Order. The said failure on the part of the Tribunal in affording the Appellant a fair opportunity to file its defense to the reports submitted by the NGT Committee is in serious violation of the principles of natural justice. On this account alone, the Impugned Order, is liable to be set aside by this Hon'ble Court.

- T. BECAUSE the Impugned Order is bad in law, inasmuch as the Tribunal has failed to act in accordance with the principles of natural justice, despite being mandated to do so by Section 19 of the NGT Act. In this regard, it is humbly submitted that Section 19(1) of the NGT Act provides that "*The Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice.*". Failure of the Tribunal to grant an opportunity to the Appellant to submit its response, not only renders

the Impugned Order in violation of the principles of natural justice but also in contravention of the statutory obligations under Section 19 of the NGT Act. On this ground alone, the Impugned Order is liable to be set aside by this Hon'ble Court.

- U. BECAUSE the Impugned Order is bad in law, inasmuch as the Tribunal rejected the Appellant's request for filing its responses, without any reasonable basis. In this regard, it is humbly submitted that the NGT rejected the Appellant's request to file a response on the ground that *"The Company had sufficient opportunity to respond to the issue, but has chosen to not do so... If the Company could approach the Hon'ble Supreme Court on 13.05.2020 and is claiming to be cooperating with other Committees, there is no reason for the Company not to give any response, except unreasonable and irresponsible attitude of avoiding patent liability on a self-serving hyper technicality."* In rejecting the Appellant's request, the Tribunal failed to consider, let alone appreciate any of the reasons advanced by the Appellant for being unable to file its responses to the Interim report and Subsequent Report submitted by the NGT Committee. Inasmuch as the Tribunal failed to even consider the Appellant's reasons for not being able to file its responses, the Impugned Order is bad in law and liable to be set aside.

V. BECAUSE the Tribunal erred insofar as it failed to consider, let alone appreciate that the Appellant was unable to file its response to the Interim Report and the Subsequent Report, on account of the fact that its premises has been seized pursuant to order passed by the Hon'ble High Court of Andhra Pradesh on 22.05.2020. Therefore, the Appellant did not even have access to its office premises, let alone the full access to the records which were present in such office premises. Moreover, during the period between 18.05.2020 to 22.05.2020, the Appellant was engaged in providing assistance to multiple Central and State authorities and committees constituted. Therefore, on account of the said reasons, it was not in position to respond to the reports filed by the NGT Committee before the Tribunal on 17.05.2020. However, the Tribunal has failed to even consider the same and has proceeded to reject the Appellant's request for an opportunity to respond *inter-alia* to the reports. Further, it would be pertinent to mention that the APPCB i.e. the Respondent No.1 during its inspection of the Plant on 11.05.2020, seized the original records and information relating to the operation of the Plant. The Appellant was not allowed to make copies of the documents prior to such seizure. The said documents are material for the purpose of preparation of responses to the reports submitted by the NGT Committee. The said rejection has resulted in the Appellant not even having an opportunity to fully present its defense to the findings in

the reports presented by the NGT Committee. Accordingly, the same violates the principles of natural justice and the Impugned Order is accordingly liable to be set aside by this Hon'ble Court.

W. BECAUSE while rejecting the Appellant's request for an opportunity to present its defense to the reports filed by the NGT Committee, the Tribunal has failed to appreciate that the final report of the NGT Committee was only uploaded on 28.05.2020 (Friday) and the matter was listed before the Tribunal on 01.06.2020, on which date, the Appellant explained its difficulties to the Tribunal (orally and in writing). However, the Tribunal did not consider any of the difficulties expressed by the Appellant including but not limited to no access to the plant (which was withdrawn post the filing of the appeal against the order dated 08.05.2020 passed by the Tribunal), government imposed lockdown prohibiting ability of Appellant's advisors and specialist experts from travelling to the plant and original records having been seized by state authorities. On this ground as well, the Impugned Order is bad in law and liable to be set aside by this Hon'ble Court.

X. BECAUSE the Tribunal has acted in undue haste. The Appellant had already submitted a substantial amount of INR 50 Crores pursuant to the Order of the Tribunal. The Appellant is participating in and cooperating with all the

investigations and proceedings against it after the Incident. Therefore, there was no hurry in concluding the proceedings within 2 dates i.e. 08.05.2020 being the date of the ex-parte suo moto proceedings and 01.06.2020 (being the first effective hearing). It is submitted that principles of natural justice required that sufficient opportunity should have been given to the Appellant to submit its response to the reports of the NGT Committee. Hence, the Impugned Order is liable to be set aside.

- Y. BECAUSE the Impugned Order is liable to be set aside, inasmuch as the Tribunal has passed the same against the Appellant, while placing reliance on the Affidavits filed by the Respondent Nos. 1 & 4, wherein the affidavit filed by the Respondent No.1 was not served upon the Appellant and the Appellant learnt about the same only pursuant to the perusal of the Impugned Order. Further, the affidavit filed by the Respondent No.4 was uploaded on the official website of the Tribunal on 29.05.2020. In this regard, it is humbly submitted that a bare perusal of the Impugned Order makes it evident that the reliance on the contents of such Affidavits have been placed by the Tribunal whilst passing the Impugned Order. However, the Appellant was not on any occasion with an opportunity to respond to the same. It is trite that any material which is to be used against a party in a proceedings ought to be made available to it, in order to ensure that such party can effectively defend itself.

Accordingly, inasmuch as the Appellant was not provided with sufficient opportunity to respond to the Affidavits which form the basis of the Impugned Order, the same is bad in law and liable to be set aside by this Hon'ble Court.

- Z. BECAUSE the Impugned Order is liable to be set aside inasmuch as the Tribunal has failed to appreciate that the Hon'ble High Court of Andhra Pradesh is seized of identical issues as being considered by the Tribunal. In this regard, it is most respectfully submitted that on 08.05.2020 a public interest litigation, being *Rapolu Bhaskar v The State of Andhra Pradesh & Ors.*, W.P (PIL) No. 117 of 2020 was preferred before the Hon'ble High Court of Andhra Pradesh, vide which the Petitioner therein *inter-alia* sought directions to be issued to the Appellant to give (i) compensation of INR 2 crores to the deceased families; (ii) INR 50 lakhs to every injured person(s); (iii) INR 50,000/- for the deceased cattle and (iv) INR 5,00,000/- to farmers, whose standing crops had been destroyed. Similarly, on 11.05.2020, a public interest litigation being *Ramakumar Sabbavarapu v. The Union of India & Ors.*, WP (PIL) No. 119 of 2020 was filed before the Hon'ble High Court of Andhra Pradesh, seeking payment of compensation by the Appellant. Relevantly, in consideration of the said petitions, the High Court has issued notice in the matters and directed the Appellant to file its responses thereto. Accordingly, from a perusal of the above, it is manifest that the High Court

is seized of identical issues including the issue of determining the root cause of the incident, liability of the Appellant and issue of compensation payable by the Appellant. It is trite that duplicate proceedings are best avoided so as to avoid conflicting views.

AA. BECAUSE the Impugned Order is erroneous, insofar as the Tribunal has stated that “*As regards pendency of proceedings in the High Court and other fora, we may note that there is no conflict on the core issue being considered by this specialized Tribunal as per the mandate of law in judgments of the Hon’ble Supreme Court referred to above.*” In this regard, it is most respectfully submitted that the High Court in WP (PIL) No. 117 of 2020 and WP (PIL) No. 119 of 2020 is seized of identical issues relating to compensation payable by the Appellant. Therefore, in so far as the Tribunal has failed to appreciate the above, the Impugned Order is erroneous and thus liable to be set aside.

BB. BECAUSE in appropriating the penalty amount of INR 50 crores from the Appellant, the Tribunal has failed to provide any rationale / basis for arriving at the said quantum. In this regard, it is most respectfully submitted that by way of its order dated 08.05.2020, the Tribunal directed the Appellant to deposit an amount of INR 50 crores as interim compensation with the District Magistrate. While complying with the said directions, the

Appellant deposited the amounts on 15.05.2020. Thereafter, however, by way of the Impugned Order, the Tribunal has directed the District Magistrate to appropriate the amount of INR 50 crores as interim compensation to be spent for restoration of the environment and compensation for victims. The Impugned Order however is completely silent on how the Tribunal arrived at the quantification of INR 50 crores or the rationale behind the said compensation amount. It is trite that reasons are the link between the mind and the order, which has been passed. In the absence of any reasons for the quantification of the compensation amount, the Impugned Order smacks of non-application of mind. Accordingly, on the said ground as well, the Impugned Order is bad in law and liable to be set aside by this Hon'ble Court.

CC. BECAUSE the Impugned Order by not allowing the Appellant to place its objections to the NGT Committee reports has fastened liability on the Appellant without any opportunity of rebuttal. With all the restrictions in place and the limited records available to the Appellant, the Appellant with a view to identify the root cause of the Incident retained globally renowned experts to assist it in deciphering this unprecedented event. While the experts have not been able to access the plant due to the restrictions described above, with the limited information

made available to them, following is the view emanating on the likely root cause of the incident and its impact:

- i. The release of styrene vapour on 07.05.2020 was an unexpected and unprecedented short term event, which was mitigated within 24 hours of onset by the Appellant;
- ii. Styrene monomer is the principal raw material for the products manufactured at the Plant. Styrene monomer has a tendency to polymerize, which is not desirable from a quality and safety perspective. The auto-polymerization of Styrene monomer (enhanced due to prolonged stagnation) could result in tank failures followed by a fire and explosion.
- iii. Keeping in view the continuous nature of its operations and the chemical properties of Styrene monomer, the Appellant did seek permission to run limited production at the plant alerting the authorities to the likely risk associated with stagnation of styrene, the permission to run the plant (albeit on a limited basis) was denied.
- iv. The government imposed lockdown directives prevented production at the plant and, hence, additions and discharges of styrene were also prevented. Therefore, these directives immediately imposed an unprecedented condition of prolonged stagnation of the styrene monomer in the M6 tank, which was unanticipated as the tank was intended to

- be used as a “running tank” with routine additions to and outflows from the tank;
- v. The Appellant was required, by the shutdown order, to manage the storage of thousands of metric tons of Styrene monomer, across four large tanks, for an unprecedented 45-days, with limited personnel and limited resources, and with its warnings about the risks and dangers ignored or rejected; despite all that, the Appellant undertook good-faith and reasonable efforts to manage those thousands of tons of styrene.
  - vi. The Appellant continuously monitored temperature and regularly monitored all important parameters such as the polymer concentrations and inhibitor levels in each tank. Tank temperature remained well within the desired range throughout the lockdown. The inhibitor levels in the M6 tank remained well within the desired range throughout the lockdown till the day of the incident;
  - vii. Neither recorded temperature nor measured inhibitor levels showed any sign of auto-polymerization;
  - viii. On early hours of 07.05.2020, there was a sudden release of vapour from M6 tank.
  - ix. In addition to the factors indicated at (i)-(iii) above, i.e. the unprecedented stagnation of styrene monomer due to the government imposed lockdown, other unknown factors led to the Incident.
  - x. The detection of the vapor release was picked up by the gas detectors surrounding the M-6 tank alerting

the on-site employees to the Incident, which resulted in the Appellant quickly taking steps to alert emergency service providers and on-site employees, taking steps to prevent further damage by turning on water sprinklers, refrigeration, circulation and cooling systems and in due course, adding chemical inhibitors. Each of these steps prevented a fire or explosion from occurring.

- xii. In over 80 years of commercial production and use, the primary safety concerns with the storage and use of styrene monomer has been ignition of flammable styrene vapors and an ensuing fire or explosion. The design of the plant, including the M6 tank, and the actions taken by the Appellant prevented a catastrophic rupture of the M6 tank, and prevented ignition of the styrene vapors and an explosion.
- xiii. Styrene is short lived in the environment. It is not known to cause chronic or delayed health effects as a result of short term exposure;
- xiv. For the last 80 years, there are no reported cases of deaths on account of exposure to styrene vapour release;
- xv. Medical information of the deceased / affected, such as blood tests, urine tests and evaluation of pre-existing conditions have to be reviewed before concluding whether the deaths / injuries were induced by exposure to styrene during the incident.

The NGT Committee has not done this evaluation either.

- xv. Appellant's equipment and procedures for handling styrene monomer were appropriate and effective for safe operation of the facility and in accordance with industry standards. This is also evidenced by decades of successful operational experience without incident.

In view of the above, many of the conclusions suggested by the inquiry committees (including the NGT Committee) are presumptive, speculative, unscientific and without any foundation based on actual facts or analysis.

5. That the Appellant has not filed any other appeal / petition before this Hon'ble Court or any other court against the Impugned Order dated 01.06.2020 passed by the Tribunal In Re: Gas Leak at LG Polymers Chemical Plant in RR Venkatapuram Village in Andhra Pradesh, being the Original Application No. 73 of 2020.
6. That the Annexures filed with the present appeal are true copies of their respective originals and formed part of the records of the Tribunal.

**PRAYER**

It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to:-

- i) admit and allow the present Civil Appeal and set aside the Impugned Order dated 01.06.2020, passed by the National Green Tribunal, Principal Bench at New Delhi in Original Application No. 73 of 2020; and
- ii) Pass such other Order or Orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

AND FOR THIS ACT OF KINDNESS THE HUMBLE APPELLANT ABOVE NAMED SHALL AS IN DUTY BOUND EVER PRAY.

FILED THROUGH:

SHARDUL  
SURESH  
SHROFF

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SHARDUL SURESH  
SHROFF  
Date: 2020.06.23 23:03:28  
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(SHARDUL S. SHROFF)

ADVOCATE FOR THE APPELLANT

DRAWN ON: 22.06.2020

FILED ON: 23.06.2020

NEW DELHI

**TRUE COPY**

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

**THURSDAY, THE SEVENTH DAY OF MAY, TWO THOUSAND AND  
TWENTY**

**:PRESENT:**

**HONOURABLE THE CHIEF JUSTICE SRI JITENDRA KUMAR  
MAHESWARI . AND**

**HONOURABLE SMT. JUSTICE LALITHA KANNEGANTI  
SUO MOTIJ WP (PIL) NO: 112 OF 2020**

In Re. Poisonous gas leakage in Visakhapatnam

Versus

1. The State of Andhra Pradesh,  
Represented by the Chief Secretary,  
Secretariat.  
Velagapudi, Amaravati.
2. Director General of Police,  
Andhra Pradesh,  
Mangalagiri, Guntur District
3. Commissioner of Police, Visakhapatnam city
4. Union of India,  
Rep by the Secretary,  
Ministry of Industries, New Delhi

5. Union of India,  
Rep by the Secretary,  
Ministry of Environment and pollution, New Delhi
  
6. The District Collector,  
Visakhapatnam District, Visakhapatnam
  
7. The Superintendent,  
King George Hospital,  
Visakhapatnam.
  
8. M/S. LG Polymers Ltd.,  
LG polymers Rd  
RRV Puram, Naidu Thota,  
Visakhapatnam, Andhra Pradesh 530029

..Respondents

Writ Petition under Article 226 of the Constitution of India praying to issue a Writ, order or direction, in the nature of Mandamus or any other appropriate writ calling for the records relating to the incident of leakage of poisonous gas from LG Polymers factory at Visakhapatnam at about 2.30 a.m. on the intervening night of 06.5.2020/07.05.2020, to direct the Respondents to take all necessary steps for saving the lives of the people in and around the said factory, to provide all necessary medical treatment to the persons who are admitted into various hospitals and to provide necessary facilities to the persons evacuated to safer places and also to issue necessary directions to avoid such incidents in future and to grant other relief/s as the Hon'ble Court may deem fit and proper in the circumstances.

The Writ Petition coming on for hearing, upon perusing the material on record and upon hearing the arguments of Sri S. Sri Ram, learned Advocate General for the State and Sri Josyula Bhaskara Rao, Standing Counsel for Central Government, the Court made the following

**ORDER:**

Heard Sri S.Sri Ram, learned Advocate General for the State and Sri Josyula Bhaskara Rao, Standing Counsel for Central Government for Central Government.

The State Legal Services Authority reported that in a factory known as "M/S. LG Polymers India Private Limited" situated at R.R.Venkatapuram, Visakhapatnam District an untoward incident of leakage of the gas took place at about 3.30 a.m., today morning, in which number of casualties have been reported and number of persons are hospitalized in serious condition and they have been put on ventilators.

It has come to knowledge that that the said factory produce polymers by use of a chemical gas, which is known as "**Styrene**", which was leaked out. The said chemical is also known as ethenyl benzene, vinyl benzene and phenylethene which is an organic compound with chemical formula of  $C_6H_5CH=CH_2$ . It is a derivation of benzene as a colourless oily liquid while the aged samples can appear yellowish. The compound easily evaporates. By the leakage of the gas and its inhalation is dangerous to the life and health of the common citizen.

The Styrene being dangerous substance, is notified under the provisions of the Environmental Protection Act, 1986 as per the Rules known as Chemical Accident (Emergency Planning, Preparedness and Response) Rules 1996, Part-II

in List of hazardous and toxic substances. Certain activities were required to be done under the provisions of those Rules by formulation of the Crisis Alert System, Central Crisis Group, State Crisis Group, District Crisis Group and Local Crisis Group. It is a matter of enquiry and assessment that the provisions of the said Rules have been observed or not.

As per the provisions of Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 formulated in terms of the provisions of the Environmental Protection Act also, Styrene has been shown as a hazardous chemical in the list of the hazardous chemicals specified at Sl.No.583. Under those rules there are general responsibilities of the occupier during industrial activity, notification for major accidents and other things are specified. It is also a matter of enquiry and assessment.

In view of the foregoing facts, the observance of the provisions of the Rules is a matter of concern while establishing and regulating the Industrial Unit of the polymer. It is also a matter of concern that at the time of issuance of such permission to run the industry due clearance as per the provisions of the Law has been taken, if it is so, then the use of Styrene gas in the industry which is hazardous to the citizens, how in nearby areas the residents have been permitted in mass; or otherwise the permission was wrongly granted to continue the said unit is required to be examined, but all these issues may be examined subsequently.

However, looking to the present situation in which 8 persons have been reponed as died and more than 300 persons are hospitalized, out of them about more than persons are on ventilators, the present concern of the Court is to provide adequate medical facilities to the victims. The habitants residing in the nearby area are to be immediately evacuated by use of NDRF (National Disaster

Response Force). In addition to the Government Hospitals, the local hospitals for providing adequate treatment the victims local hospitals must be opened by the indulgence of the State Government.

In the present situation of Pandemic COVID-19 spread, in which the lock down is continuing since more than a month, to which the Central Government as well as the State Government have issued adequate advisories, how its observance may be followed subject to enquiry that this industry was in preparation to reopen after lock down of 40 days was permissible.

In addition to providing adequate medical facilities, the arrangements of food and nutrition to the citizens including minor children and pregnant women are also a paramount consideration. Simultaneously the availability of adequate NDRF staff, consequential impact on environment as well as citizens is also a concern of the Court.

It is informed that the Central Government has directed to send the NDRF teams from the States of Gauhati, Goa and Daman and Diu to the State Government to take adequate steps. Simultaneously, a team of experts to study environmental impact is also directed with a further direction that the State be Authorities shall provide adequate medical facilities to the affected victims by indulgence of the State Government in local hospitals. The Central Government has issued certain directions today itself including the Dos, Don'ts and Precautions which are required to be scrupulously followed by the State Government.

We acknowledge the steps swiftly taken by the Central Government, but we further observe that in case the State Authorities are of the opinion that the NDRF staff is further required, they may ask from the Central Government

sending the additional staff in Reserve Force to cope-up the present situation in the area, that includes evacuation of the affected persons, shifting them for medical aids, offering the adequate nutritional diet and medical facilities. It is further to observe that the State Government shall ensure to issue direction for opening of the private hospitals in Visakhapatnam area for medical aid to the needy persons.

It is further observed that the immediate steps to be taken to bring down the effect of the leakage of the Styrene gas by sprinkling of water or other substances which may curtail further damage by requesting Fire services from the nearby areas in reserve shall be ensured by the Government. Simultaneously, the repeated leakage must be checked.

It is further observed that while doing so, looking at the COVID-19 situation, in lock down, social distancing is primary concern otherwise it would create another disaster for the citizens.

The State Government shall ensure to appoint a Committee of appropriate Officers not below the rank of Principal Secretaries to monitor the things and submit the compliance in this regard within a week.

It is further made clear that the entire action of Disaster Management Authority is required to be supervised by the Chief Secretary of the State under the provisions of the Rules by which a Committee is already constituted to supervise the functioning of the Senior Officers.

The State Legal Services Authority shall assign appropriate Officer from the District Legal Services Authority, Visakhapatnam to supervise the recent issues and the Principal District Judge, Visakhapatnam may coordinate with the

State officials on the issue. The District Legal Services Authority, Visakhapatnam shall give proper assistance through Para-legal volunteers.

Sri Y.V.Ravi Prasad, learned Senior Counsel is appointed as Amicus-curiae in this matter to assist the Court.

With the aforesaid, we postpone the hearing on 20.052020. Let the action taken report be made available on the said date.

Sd/- P. Ramakrishna

JOINT REGISTRAR

//TRUE COPY//

for JOINT REGISTRAR

To

1. The the Chief Secretary, Government of Andhra Pradesh, Secretariat,\elagapudi, Amaravati.
2. Director General of Police, Andhra Pradesh, Mangalagiri, Guntur District
3. Commissioner of Police, Visakhapatnam city
4. The Secretary, Ministry of Industries, Union of India, New Delhi
5. The Secretary, Ministry of Environment and pollution, Union of India, New Delhi
6. The District Collector, Visakhapatnam District, Visakhapatnam.
7. The Superintendent, King George Hospital, Visakhapatnam.
8. M/S. LG Polymers Ltd., LG polymers Limited RRV Puram, Naidu Thota, Visakhapatnam, Andhra Pradesh 530 029
9. The Member Secretary, AP. State Legal Services Authority, High Court Buildings
10. The Principal District Judge, Visakhapatnam.
11. The Secretary, District Legal Services Authority, Visakhapatnam District, Visakhapatnam

12. Two CCs to Advocate General for the State of AP.
13. Sri Josyula Bhaskara Rao, Standing Counsel for Central Government
14. Sri Y.V. Ravi Prasad, Senior Advocate (along with the papers on record)
15. One spare copy

HIGH COURT

HCJ AND LK J

DATED : 07/05/2020

NOTE : POST ON 20.05.2020

ORDER

WP[PIL] NO. 112 OF 2020

**TYPED COPY**

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

THURSDAY, THE SEVENTH DAY OF MAY,  
TWO THOUSAND AND TWENTY



:PRESENT:

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

SUO MOTU WP (PIL) NO: 112 OF 2020

*In Re.* Poisonous gas leakage in Visakhapatnam

Versus

1. The State of Andhra Pradesh,  
Represented by the Chief Secretary,  
Secretariat.,  
Velagapudi, Amaravati.

2. Director General of Police,  
Andhra Pradesh,  
Mangalagiri, Guntur District

3. Commissioner of Police,  
Visakhapatnam city

4. Union of India,  
Rep by the Secretary,  
Ministry of Industries, New Delhi

5. Union of India,  
Rep by the Secretary,  
Ministry of Environment and pollution, New Delhi

6. The District Collector,  
Visakhapatnam District, Visakhapatnam.

7. The Superintendent,  
King George Hospital,  
Visakhapatnam.

8. M/s. LG Polymers Ltd.,  
LG polymers Rd  
RRV Puram, Naidu Thota,  
Visakhapatnam, Andhra Pradesh 530029

...Respondents

Writ Petition under Article 226 of the Constitution of India praying to issue a Writ, order or direction, in the nature of Mandamus or any other appropriate writ calling for the records relating to the incident of leakage of poisonous gas from LG Polymers factory at Visakhapatnam at about 2.30 a.m. on the intervening night of 06.5.2020/07.05.2020, to direct the Respondents to take all necessary steps for saving the lives of the people in and around the said factory, to provide all necessary medical treatment to the persons who are admitted into various hospitals and to provide necessary facilities to the persons evacuated to safer places and also to issue necessary directions to avoid such incidents in future and to grant other relief/s as the Hon'ble Court may deem fit and proper in the circumstances.

The Writ Petition coming on for hearing, upon perusing the material on record and upon hearing the arguments of Sri S. Sri Ram, learned Advocate General for the State and Sri Josyula Bhaskara Rao, Standing Counsel for Central Government, the Court made the following

**ORDER:**

Heard Sri S.Sri Ram, learned Advocate General for the State and Sri Josyula Bhaskara Rao, Standing Counsel for Central Government for Central Government.

The State Legal Services Authority reported that in a factory known as "M/s. LG Polymers India Private Limited" situated at R.R.Venkatapuram, Visakhapatnam District an untoward incident of leakage of the gas took place at about 3.30 a.m., today morning, in which number of casualties have been reported and number of persons are hospitalized in serious condition and they have been put on ventilators.

It has come to knowledge that that the said factory produce polymers by use of a chemical gas, which is known as "**Styrene**", which was leaked out. The said chemical is also known as ethenyl benzene, vinyl benzene and phenylethene which is an organic compound with chemical formula of  $C_6H_5CH=CH_2$ . It is a derivation of benzene as a colourless oily liquid while the aged samples can appear yellowish. The compound easily evaporates. By the leakage of the gas and its inhalation is dangerous to the life and health of the common citizen.

The Styrene being dangerous substance, is notified under the provisions of the Environmental Protection Act, 1986 as per the Rules known as Chemical Accident (Emergency Planning, Preparedness and Response) Rules 1996, Part-II in List of hazardous and toxic substances. Certain activities were required to be done under the provisions of those Rules by formulation of the Crisis Alert System, Central Crisis Group, State Crisis Group, District Crisis Group and Local Crisis Group. It is a matter of enquiry and assessment that the provisions of the said Rules have been observed or not.

As per the provisions of Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 formulated in terms of the provisions of the Environmental Protection Act also, Styrene has been shown as a hazardous chemical in the list of the hazardous chemicals specified at Sl.No.583. Under those rules there are general responsibilities of the occupier during industrial activity, notification for major accidents and other things are specified. It is also a matter of enquiry and assessment.

In view of the foregoing facts, the observance of the provisions of the Rules is a matter of concern while establishing and regulating the Industrial Unit of the polymer. It is also a matter of concern that at the time of issuance of such permission to run the industry due clearance as per the provisions of the Law has been taken, if it is so, then the use of Styrene gas in the industry which is hazardous to the citizens, how in nearby areas the residents have been permitted in mass; or otherwise the permission was wrongly granted to continue the said unit is required to be examined, but all these issues may be examined subsequently.



However, looking to the present situation in which 8 persons have been reported as died and more than 300 persons are hospitalized, out of them about more than 80 persons are on ventilators, the present concern of the Court is to provide adequate medical facilities to the victims. The habitants residing in the nearby area are to be immediately evacuated by use of NDRF (National Disaster Response Force). In addition to the Government Hospitals, the local hospitals for providing adequate treatment the victims local hospitals must be opened by the indulgence of the State Government.

In the present situation of Pandemic COVID-19 spread, in which the lock down is continuing since more than a month, to which the Central Government as well as the State Government have issued adequate advisories, how its observance may be followed subject to enquiry that this industry was in preparation to reopen after lock down of 40 days was permissible.

In addition to providing adequate medical facilities, the arrangements of food and nutrition to the citizens including minor children and pregnant women are also a paramount consideration. Simultaneously the availability of adequate NDRF staff, consequential impact on environment as well as citizens is also a concern of the Court.

It is informed that the Central Government has directed to send the NDRF teams from the States of Gauhati, Goa and Daman and Diu to the State Government to take adequate steps. Simultaneously, a team of experts to study environmental impact is also directed with a further direction that the State be Authorities shall provide adequate medical facilities to the affected victims by indulgence of the State Government in local hospitals. The Central Government has issued certain directions today itself including the Dos, Don'ts and Precautions which are required to be scrupulously followed by the State Government.

We acknowledge the steps swiftly taken by the Central Government, but we further observe that in case the State Authorities are of the opinion that the NDRF staff is further required, they may ask from the Central Government sending the additional staff in Reserve Force to cope-up the present situation in the area, that includes evacuation of the affected persons, shifting them for medical aids, offering the adequate nutritional diet and medical facilities. It is further to observe that the State Government shall ensure to issue direction for opening of the private hospitals in Visakhapatnam area for medical aid to the needy persons.

It is further observed that the immediate steps to be taken to bring down the effect of the leakage of the Styrene gas by sprinkling of water or other substances which may curtail further damage by requesting Fire services from the nearby areas in reserve shall be ensured by the Government. Simultaneously, the repeated leakage must be checked.

It is further observed that while doing so, looking at the COVID-19 situation, in lock down, social distancing is primary concern otherwise it would create another disaster for the citizens.

The State Government shall ensure to appoint a Committee of appropriate Officers not below the rank of Principal Secretaries to monitor the things and submit the compliance in this regard within a week.

It is further made clear that the entire action of Disaster Management Authority is required to be supervised by the Chief Secretary of the State under the provisions of the Rules by which a Committee is already constituted to supervise the functioning of the Senior Officers.

The State Legal Services Authority shall assign appropriate Officer from the District Legal Services Authority, Visakhapatnam to supervise the recent issues and the Principal District Judge, Visakhapatnam may coordinate with the State officials on the issue. The District Legal Services Authority, Visakhapatnam shall give proper assistance through Para-legal volunteers.

Sri Y.V.Ravi Prasad, learned Senior Counsel is appointed as Amicus-curiae in this matter to assist the Court.

With the aforesaid, we postpone the hearing on 20.05.2020. Let the action taken report be made available on the said date.

Sd/- P. Ramakrishna  
JOINT REGISTRAR

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for JOINT REGISTRAR

To

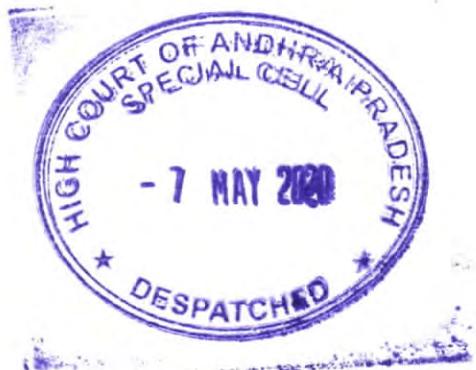
1. The the Chief Secretary, Government of Andhra Pradesh, Secretariat, Velagapudi, Amaravati.
2. Director General of Police, Andhra Pradesh, Mangalagiri, Guntur District
3. Commissioner of Police, Visakhapatnam city
4. The Secretary, Ministry of Industries, Union of India, New Delhi
5. The Secretary, Ministry of Environment and pollution, Union of India, New Delhi
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8. M/s. LG Polymers Ltd., LG polymers Limited RRV Puram, Naidu Thota, Visakhapatnam, Andhra Pradesh 530 029
9. The Member Secretary, A.P. State Legal Services Authority, High Court Buildings
10. The Principal District Judge, Visakhapatnam.
11. The Secretary, District Legal Services Authority, Visakhapatnam District, Visakhapatnam
12. **Two CCs to Advocate General for the State of A.P.**
13. **Sri Josyula Bhaskara Rao, Standing Counsel for Central Government**
14. **Sri Y.V. Ravi Prasad, Senior Advocate (along with the papers on record)**
15. One spare copy

HIGH COURT



HCJ & LK J

DATED:07/05/2020



NOTE: POST ON 20-05-2020

ORDER

WP(PIL).No.112 of 2020

**TRUE COPY**

**ANNEXURE - E**

Corrected Order Dated 08.05.2020

Item No. 12

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

(By Video Conferencing)

Original Application No. 73/2020

In re: Gas Leak at LG Polymers Chemical Plant in RR  
Venkatapuram Village Visakhapatnam in Andhra Pradesh

Date of hearing: 08.05.2020

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER****ORDER**

1. This matter has been taken up *suo-motu* on the basis of media reports<sup>1</sup> to the effect that leakage of hazardous gas, Styrene, took place at 03:45AM on 07.05.2020, from a chemical factory owned by the South Korean company LG Polymers India Pvt., Limited, R.R. Venkatapuram village, Pendurthy Mandal, Vishakhapatnam resulting in death of 11 persons and hospitalization of more than 100 people of whom at least 25 were reported to be serious. These fatalities and injuries are reportedly likely to increase. More than 1000 persons are reported sick. There is also damage to environment and habitat. The media reports give rise to a substantial question of environment, which needs to be gone into by this Tribunal under Sections 14 and 15 of the NGT Act, 2010.

<sup>1</sup> <https://www.ndtv.com/india-news/visakhapatnam-lg-polymers-gas-leakage-8-dead-over-1-000-sick-after-gas-leak-at-andhra-chemical-plant-2224643>;  
<https://indianexpress.com/article/india/visakhapatnam-gas-leak-live-updates-dead-injured-cm-jagan-mohan-reddy-pm-modi-6397962/>

2. Styrene gas is a hazardous chemical as defined under Rule 2(e) read with Entry 583 of Schedule I to the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989. The Rules require on-site and off-site Emergency Plans to ensure prevention of damage. There appears to be failure to comply with the said Rules and other statutory provisions. Leakage of hazardous gas at such a scale adversely affecting public health and environment, clearly attracts the principle of 'Strict Liability' against the enterprise engaged in hazardous or inherently dangerous industry. Such an entity is liable to restore the damage caused under the Environment Law, apart from other statutory liability. The statutory authorities responsible for authorizing and regulating such activities may also be accountable for their lapses, if any, in dealing with the matter. It is also necessary to ensure that all necessary steps are taken to prevent recurrence of such an incident. Without prejudice to any other proceedings, this Tribunal has to perform its statutory obligation of providing relief and compensation to the victims of "environmental damage", as statutorily enacted, and restitution of damaged property and environment. With a view to deal with the issue, it is necessary to ascertain the facts relating to the extent of damage, extent of failure and consider remedial measures. The affected parties have to be given the opportunity of being heard.
3. Accordingly, we issue notice to Andhra Pradesh State PCB, District Magistrate, Vishakhapatnam, Central Pollution Control Board (CPCB), Ministry of Environment, Forests & Climate Change (MoEF&CC) and LG Polymers India Pvt., Limited. Notice may be served by email and response if any, be filed before the next date, by email at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in).

4. We also seek a report from a 6-member Committee comprising:
  - a. Justice B. Seshasayana Reddy, Former Judge, A.P. High Court; - (Online till he is able to reach Vizag);
  - b. Prof. Ch V Rama Chandra Murthy, Former Vice Chancellor, Andhra University, Vizag;
  - c. Professor Pulipati King, Head of Chemical Engineering Department, Andhra University, Vizag;
  - d. Member Secretary, CPCB (Online, if travel is restricted due to Covid-19); and
  - e. Director, CSIR-Indian Institute of Chemical Technology (Online, if travel is restricted due to Covid-19);
  - f. Head, NEERI, Vizag.

The District magistrate, Vishakhapatnam, and Regional Office, Andhra Pradesh State PCB may provide logistic support to the Committee to enable their fact-finding and reporting. The Chairman, CPCB may steer and facilitate the functioning of the Committee using available technology. CPCB will bear the initial cost of functioning of the Committee to the extent necessary. The Committee will be at liberty to take assistance of such experts, individuals and institutions as may be considered necessary. The Member Secretary, CPCB will act as nodal agency for coordination.

5. The Committee may visit and inspect the site at the earliest and give its report before the next date via email [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in). Site visit may be initially conducted by members available locally in consideration with outside members online. The Committee may specifically report:
  - a. The sequence of events;

- b. Causes of failure and persons and authorities responsible therefor;
  - c. Extent of damage to life, human and non-human; public health; and environment – including, water, soil, air;
  - d. Steps to be taken for compensation of victims and restitution of the damaged property and environment, and the cost involved;
  - e. Remedial measures to prevent recurrence;
  - f. Any other incidental or allied issues found relevant.
6. Having regard to the *prima facie* material regarding the extent of damage to life, public health and environment, we direct LG Polymers India Pvt., Limited to forthwith deposit an initial amount of Rs. 50 Crore, with the District Magistrate, Vishakhapatnam, which will abide by further orders of this Tribunal. The amount is being fixed having regard to the financial worth of the company and the extent of the damage caused.
7. A copy of this order be sent to Justice B. Seshasayana Reddy, Former judge, A.P. High Court; Prof. Ch V Rama Chandra Murthy, Former Vice Chancellor, Andhra University, Vizag; Professor Pulipati King, Head of Chemical Engineering Department, Andhra University, Vizag; Director, CSIR-Indian Institute of Chemical Technology; Head, NEERI, Vizag; Andhra Pradesh State PCB; District Magistrate, Vishakhapatnam; Central Pollution Control Board (CPCB); Ministry of Environment, Forests & Climate Change (MoEF&CC) and LG Polymers India Pvt., Limited, by email.

List for further consideration on 18.5.2020.

Adarsh Kumar Goel, CP

Sheo Kumar Singh, JM

Dr. Nagin Nanda, EM

May 08, 2020  
Original Application No. 73/2020  
DV

**TRUE COPY**

ANNEXURE - F

ITEM NO.24

Virtual Court 1

SECTION XVII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL Diary No(s). 11327/2020

(Arising out of impugned final judgment and order dated 08-05-2020  
in OA No. 73/2020 passed by the National Green Tribunal)

LG POLYMERS INDIA PRIVATE LIMITED

Petitioner(s)

VERSUS

ANDHRA PRADESH POLLUTION CONTROL BOARD &amp; ORS.

Respondent(s)

Date : 19-05-2020 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT  
HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR  
HON'BLE MR. JUSTICE VINEET SARANFor Petitioner(s) Mr. Mukul Rohatgi, Senior Advocate  
Ms. Pallavi Shroff, Adv.  
Mr. S. S. Shroff, AOR  
Mr. Anuj Berry, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following  
O R D E R

Mr. Mukul Rohatgi, learned senior Advocate appearing in support of the appeal submitted that soon after the fateful incident, the High Court took cognizance in Suo Motu W.P.(PIL) No.112/2020 and directed the State Government to constitute a Committee of appropriate Officers not below the rank of Principal Secretaries. Pursuant thereto, the State Government by order dated 8.5.2020 appointed a Committee comprising of five officers including Member-Secretary of the State Pollution Control Board.

Signature Not Verified

Digital Signature by  
INDU  
Date: 2020.05.21  
17:48:10 IST  
Reason:

Paras 4 and 5 of the order are to the following effect:

**"4. The Government is fully committed to ensuring that such a harmful incident does not take place again. To achieve this, the Government hereby appoints a High-Power Committee to robe into the causes behind the gas leak and to take stock of the recovery steps being taken in response to the incident.**

Sl.No.	Name of the Officer & Designation	Department	Chair/Member
1.	Sri Neerab Kumar Prasad, IAS, Special Chief Secretary to Government	EFS&T Department	Chairman
2.	Sri R. Karikal Valaven IAS, Special Chief Secretary to Government	Industries & Commerce Department	Member
3.	Sri Vinay Chand, IAS	Collector and District Magistrate, Visakhapatnam	Member
4.	Sri R.K. Meena, IPS	Commissioner of Police, Visakhapatnam	Member
5.	Sri Vivek Yadav, IAS	Member Secretary, AP Pollution Control Board.	Member-Convenor

**5. The terms of reference of the High-Power Committee on the vapour gas leak incident at LG Polymer Plant, Visakhapatnam are as follows:**

- a. The Committee shall enquire on reasons for the leakage, including varifying if the Company had adhered to all safety protocols;
- b. The Committee shall study if there are long-term effects of the gas leakage on the surrounding villages, if any;
- c. The Committee shall recommend proposed action to be taken against the Unit by the Government, in case of any negligence on the vapour leak incident in Visakahapatnam;
- d. The Committee will suggest measures to be taken by Industry units, including safety audits, to prevent such mishaps in future;
- e. In case there are any observations and suggestions for all similar industrial plants, those too shall be communicated in the report."

Mr. Rohatgi further submitted that apart from this Committee,

appropriate proceedings have been taken by concerned District Magistrates as well as by the Central Government and NHRC. In his submission given the circumstances that the matter is engaging the attention of a Committee appointed pursuant to suo motu cognizance taken by the High Court, there was no occasion for the NGT to appoint a further Committee.

He stated that in compliance of the directions issued by the NGT, the appellant has deposited the amount of Rs.50 crores and at this stage the appellant is not seeking any relief with regard to said sum but the legal issues raised by the appellant need consideration. Reliance was also placed on some of the orders passed by this Court where the question whether NGT could take suo motu cognizance of any matter was squarely in issue. It was, therefore, submitted that the direction taking suo motu cognizance by the Tribunal be stayed.

We have been given to understand that the matter is now listed before the NGT on 1<sup>st</sup> June, 2020. In the circumstances, we give liberty to the appellant to raise appropriate contentions before the NGT on the next date. The submissions raised by the appellant may be dealt with by the NGT as early as possible.

List for further consideration on 8.6.2020.

(INDU MARWAH)  
COURT MASTER (SH)

(PRADEEP KUMAR)  
BRANCH OFFICER

**TRUE COPY**

**IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI  
FRIDAY THE TWENTY SECOND DAY OF MAY, TWO  
THOUSAND AND TWENTY**

**,:PRESENT:**

**THE HON'BLE THE CHIEF JUSTICE JITENDRA KUMAR  
MAHESHWARI AND  
THE HON'BLE SMT JUSTICE LALITHA K,ANNEGANTI**

**WP (PIL) NO: 112 OF 2020**

**WP (PIL) NO: 117 OF 2020**

**ANd**

**WP (PIL) NO: 119 OF 2020**

**WP (PIL) NO. 112 OF 2020**

**Between:**

TAKEN UP, Poisonous gas leakage in Visakhapatnam

**... Petitioner**

**AND**

1. State Of Andhra Pradesh, Rep. by the chief secretary, Secretary,  
Velagapudi, Amaravati
2. Director General of Police, Andhra Pradesh, Mangalagiri, Guntur District
3. Commission of Police, Visakhapatnam City
4. Union of India, Rep by the Secretary, Ministry of Industries, New  
Delhi
5. Union of India, Rep by the Secretary, Ministry of Environment and  
Pollution, New Delhi
6. The District Collector, Visakhapatnam District
7. The Superintendent, King George Hospital, Visakhapatnam
8. M/s. LG Polymers Ltd., LG Polymers RD RRV Puram, Naidu Thota,  
Visakhapatnam, Andhra Pradesh 530029

**... Respondents**

Writ Petition under Article 226 of the Constitution of India praying to issue a

Writ, order or direction, in the nature of mandamus or any other appropriate writ calling for the records relating to the incident of leakage of poisonous gas from LG Polymers factory at Visakhapatnam at about 2.30 a.m. on the intervening night of 06.5.2020/07.05.2020, to direct the Respondents to take all necessary steps for saving the lives of the people in and around the said factory, to provide all necessary medical treatment to the persons who are admitted into various hospitals and to provide necessary facilities to the persons evacuated to safer places and also to issue necessary directions to avoid such incidents in future and to grant other relief/s as the Hon'ble Court may deem fit and proper in the circumstances.

The Writ Petitions coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and the order of the High Court order dated 07.05.2020 in WP (PIL) No. 112 of 2020 made herein and upon hearing the arguments of Sri Y.V. Ravi Prasad, Amicus Curiae, for the petitioner, Sri S.Sriram, Advocate General, for the Respondents Nos. 1, 2, 3, 6, 7, of Sri Josyula Bhaskar Rao, S.C. for Central Govt., for Respondents No.4 and 5 and of Sri D.Narendra Naik, for Respondent No.8.:

**WP (PIL) NO: 117 OF 2020**

**Between:**

Rapolu Bhaskar, S/o Late Rapolu Rarnulu, Occ: Advocate, *Rio* Flat No.501, Vaishnavi Nest Apartments, Indira Nagar, Beside IKON Hospital, Dilsukhnagar, Hyderabad- 500 036. Cell - 9848498029

... **Petitioner**

**AND**

1. The State of Andhra Pradesh, Rep. by its Principal Secretary, Department of

Industries, Secretariat, Andhra Pradesh.

2. The Commissioner, Department of Industries, O/o First Floor, Government Regional Printing Press Buildings, Mutyalampadu St, Vijayawada, 520 011,
3. The Proprietor, LG Polymers Pvt. Ltd, RR Venkatapuram, Vishakapatnam, Andhra Pradesh-530 029.
4. The Director, LG Polymers Pvt. Ltd, RR Venkatapuram, Vishakapatnam, Andhra Pradesh-530 029

### **.. Respondents**

Writ Petition under Article 226 of the Constitution of India praying to issue a Writ, Order or a Direction more Particularly in the nature of a Writ of Mandamus declaring the action of the respondents in not providing financial assistance and medical facilities to the affected people at Vishakhapatnam in the State of Andhra Pradesh and to direct the concerned authorities to take the action against the respondents who were responsible to cause this gas incident and to direct respondents to provide the best medical facilities to the injured persons and also to direct to the LG Polymers company management to give the compensation of Rs. 2 crores to the deceased families and Rs.50 Lakhs to every injured persons and Rs.50,000 to the deceased cattle as well as Rs.5,00,000 to the damaged standing crop of the farmers and also to direct the company authorities to take full responsibilities to provide the medical facilities for the consequences of health issues in future and also immediately seize the company at present and also to direct to shift the company far from the Vishakhapatnam and also to direct the authorities to provide the double bedroom houses to the deceased people families under Apadhbandhu Padakam and also ask the concerned authorities to submit the reports of regarding LG polymers gas leakage incident and safety measures by the respondents and concerned officers in the interest of justice.

**IA NO: 1 OF 2020**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents forthwith to provide financial assistance and medical facilities to the affected people at Vishakhapatnam in the State of Andhra Pradesh and also to direct the respondents to take the action against the respondents who were responsible to cause this gas incident and to direct respondents to provide the best medical facilities to the injured persons and also to direct to the LG Polymers company management to give the compensation of Rs.2 crores to the deceased families and Rs.50 Lakhs to every injured persons and Rs.50,000 to the deceased cattle as well as Rs.5,00,000 to the damaged standing crop of the farmers and also to direct the company authorities to take full responsibilities to provide the medical facilities for the consequences of health issues in future and also immediately seize the company at present and also to direct to shift the company far from the Vishakhapatnam and also to direct the authorities to provide the double bedroom houses to the deceased people families under Apadhbandhu Padakam and also ask the concerned authorities to submit the reports of regarding LG polymers gas leakage incident and safety measures by the respondents and concerned officers for the pending disposal of the above writ petition (PIL) No. 117 of 2020, on the file of the High Court.

The Writ Petitions coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and the order of the High Court order dated 07.05.2020 in WP (PIL) No. 112 of 2020 made herein and upon hearing the arguments of Sri Sri Ch. Markondaiah, Advocate for the Petitioner, of Sri S.Sriram, Advocate General, for the Respondent No.I and of G.P. for Industries & Commerce, for Respondent No. 2:

**WP (PIL) NO: 119 OF 2020**

**Between:**

Ramakumar Sabbavarapu, S/o. S. Eswar Rao, Aged 38 years, *Rio Door*  
No. 2-1, Pinagadi Village, Pendurthi Manda!, Visakhapatnam 531173

... **Petitioner**

**AND**

1. The Union of India, Rep. by its Under Secretary, Ministry of Home Affairs, New Delhi.
2. The Union of India, Rep. by its Secretary, Ministry of Environment, Forest and Climatic Changes, New Delhi.
3. The Central Bureau of Investigation, Rep. by its Director, Plot No. 5-B, 6th Floor, CGO Complex, Lodhi Road, Jawaharlal Nehru Stadium Marg, Delhi 110003.
4. The State of Andhra Pradesh, Rep. by its Principal Secretary, Department of Industries, Velagapudi, Amaravathi.
5. The State of Andhra Pradesh, Rep. by its Secretary, Ministry of Environment, Forest and Climatic Changes, Velagapudi, Amaravathi.
6. The State of Andhra Pradesh, Rep. by its Secretary, Home Department, Velagapudi, Amaravathi.
7. The State of Andhra Pradesh, Rep. by its Secretary, General Administration Department (SC.I), Velagapudi, Amaravathi.
8. Central Pollution Control Board, Rep. by its Member Secretary, Parivesh Bhawan, Maharshi Valmiki Marg, East Arjun Nagar, Vishwas Nagar Extension, Shandara, Delhi, 110032.
9. A.P. Pollution Control Board, Rep. by its Member Secretary, Kadiyala Vari St, Moghalrajpuram, Suryaraopeta, Vijayawada, Andhra Pradesh 520002.

10. The Collector and District Magistrate, Address. Krishnagar, Maharani Peta, Visakhapatnam, Andhra Pradesh 530002.
11. Commissioner of Labour, Kovelamudivari Street, Suryaraopeta, Vijayawada, Andhra Pradesh 520002.
12. Visakhapatnam Municipal Corporation, Rep. by its Commissioner, Chitralaya Rd, Suryabagh, Jagadamba Junction, Visakhapatnam, Andhra Pradesh 530020.
13. Chief Inspector of Factories, Department of Factories, Yadavula Bazar, Benz Circle, Vijayawada, Andhra Pradesh 520008.
14. State Crisis Group, Vijayawada, Krishna District.
15. Central Crisis Group, New Delhi
16. *MIS* LG Polymers India Pvt. Ltd., Rep. by its Managing Director, Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029.
17. LG Chem, Rep. by its Managing Director, LG Twin Towers, 128 Yeouidaer Yeongdeungpo-gu Seoul Korea, Republic of (South)
18. Byungkeun Song, Director, *MIS* LG Polymers India Pvt. Ltd, Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029.
19. Hyun Seok Jang, Director, *MIS* LG Polymers India Pvt. Ltd, Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029.
20. Sunkey Jeong, Director, *MIS* LG Polymers India Pvt. Ltd, Quality Innovation and Solutions, RR Venkatapuram1, Visakhapatnam 530029.
21. Pooma Chandra Mohan Rao Pitchuka, Director, *MIS* LG Polymers India Pvt. Ltd, Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029.
22. Chan Sik Chung, Director, *MIS* LG Polymers India Pvt. Ltd, Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029.

**... Respondents**

Writ Petition under Article 226 of the Constitution of India praying 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) i. Declaring G.O. Rt. No. 449 dt 08.05.2020 and G.O. Rt. No. 803 dt 07.05.2020 as illegal and arbitrary to the extent that the State Government has ordered to pay compensation to the parties affected by the escape of Styrene Gas at about 3.30 AM on 07.05.2020 from the factory owned by LG Polymers India Pvt. Ltd in R.R.Venkatapuram Village, Pendurthy Mandal, Visakhapatnam(Gas Leakage or Incident) and consequently direct LG Polymers India Pvt Ltd. to pay the said compensation in the place and stead of the State Government. ii. Declaring the Schedule under Section 3(1) of The Public Liability Insurance Act, 1991 to be grossly inadequate and manifestly arbitrary and consequently revise the specified quantum of money payable as reliefs and/or direct the Union of India to revise the same as deemed fit and proper by this Hon'ble Court. iii. Directing the continuous implementation of Section 5, 6 and 7 of The Public Liability Insurance Act, 1991 and submission of weekly press reports by the District Collector, Visakhapatnam. iv. Directing LG Polymers India Pvt Ltd to state on affidavit all the compliances, standard operating procedures, permissions, insurance policies and other actions taken by it ensure the safety of its factory in R.R.Venkatapuram Village, Pendurthy Manda!, Visakhapatnam, India (Unit or Factory). v. Directing the Respondents to permanently close down the Factory and/or shift the Factory from the densely populated area to a suitable location. vi. Directing the Union of India to entrust the Central Bureau of Investigation or any other special/independent investigation agency to investigate into the Gas Leakage and if necessary, initiate prosecution against the persons responsible for the said incident including officials of the Government of Andhra Pradesh and LG Polymers India Pvt Ltd. vii. Directing the investigation authority to submit periodical status reports on the progress of the investigation into the Gas Leakage to this Hon'ble Court. viii. Directing the concerned departments to take action against the Officials departmentally for their negligent acts which led to the Gas Leakage. ix. Directing

the Government of Andhra Pradesh to identify all other factories and industries in Andhra Pradesh which are flouting the applicable laws and take appropriate action against the said persons.

The Writ Petitions coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and the order of the High Court order dated 07.05.2020 in WP (PIL) No. 112 of 2020 made herein and upon hearing the arguments of Sri Sai Sanjay Suraneni, Advocate for the Petitioner, of Sri N. Harinath, Assistant Solicitor General for Respondent Nos. 1 & 2, of Sri S.Ravi, Senior Counsel for Sri D. Ravindra Naik, Advocate for Respondent Nos.16 to 22 and of Sri S.Sriram, Advocate General, for the Respondent Nos. 4, 5, 6, 7, 11, 13 & 14:

**The Court made the following ORDER:**

"Heard learned counsel appearing on behalf of petitioners and respondents in all the cases.

This Court on 07.05.2020 suo-motu has taken up the issue regarding leakage of Styrene Gas in Vizag and passed slew of directions to the respondents and also to file action taken reports by 20.05.2020. Both the State Government as well as Central Government filed their respective affidavits along with material to show the efforts made by them.

In the meantime, two Writ Petitions have been filed bearing W.P.Nos.117 of 2020 and 119 of 2020. In those Writ Petitions, certain issues have been raised. In addition to those issues and having regard to the following issues, explanation is necessary:

- *LG Polymers has been operating without a valid Environmental Clearance from the Ministry of Environment, Forests and Climate Change (MoEFCC).*
- *Dr. EASSarma (Former Energy Secretary/GO!) who filed a PIL in AP High Court over this issue, has included the report prepared by the duo (SagarDhara and K Babu Rao).*
- *The inhibitor concentration in the storage tank was not checked. Refrigeration system was not working properly.*
- *The radius of the vulnerable zone extended upto 6.3 Km from the source.*
- *There are several hospitals, educational institutions, places of worship, railway stations and airport within the vulnerable zone.*
- *Bystander population should have been informed of the risk they were at and trained in evacuation procedures in the event of an accident as per Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989. But, this has not been done.*
- *The siren/alarm system did not Junction.*

The replies filed by the State Government and Central Government are silent on the said issues.

The Advocate General and the Counsel appearing on behalf of the Assistant Solicitor General prays for time to apprise this Court and to file affidavit

on the above said queries. Further, the reply is also necessary on the following issues:

- *What is the net worth of LG Polymers Pvt. Ltd, as per the provisions of the Companies Act, but not as per the book value.*
- *After registration of crime, on appointment of the investigation/inspection team and also when Magisterial enquiry was required, why, without appointment of the said panel or permission of the Court, Styrene Monomer has been permitted to be transported to South Korea and who is the person responsible for the same?*

After hearing the learned counsel appearing on behalf of both the parties, subject to filing reply by other side, we issue the following interim directions:

- i) The premises of the Company shall be completely seized and no one be allowed to enter into the premises including the Directors of the Company.
- ii) The Committee, if any, appointed wants to inspect the premises, they are at liberty but they shall put a note on the Register maintained at the gate of the Company regarding the said inspection and while returning, a note regarding the act done in the premises be also noted.
- iii) We further direct that none of the assets, movable or immovable, fixture, machinery and contents shall be allowed to be shifted without the leave of the Court.
- iv) As stated before the Court, the Directors of the Company have

surrendered their passport and they are in India, however, we direct that their passports shall not be released without the leave of the Court and they be not allowed to go outside to India without leave.

- v) It be also apprised whether, during the lock down period, any permission were obtained to restart the operations; if not, action taken report in this regard be filed.
- vi) In this regard to the grievance shown regarding appointment of various Committees by the National Green Tribunal, Central Government and State Government; the Central Government and State Government are at liberty to apprise as to which Committee shall fulfill the purpose to answer all the quests in issue.

We direct the respondents to file the compliance report by 26.05.2020.

List these cases on 28.05.2020

Sd/- M.S.V.NAVEEN CHANDRA  
ASSISTANT REGISTRAR

//TRUE COPY//

For ASSISTANT REGISTRAR

To,

1. The Chief Secretary, State of Andhra Pradesh, Secretariat, Velagapudi, Amaravati [by RPAD].
2. The Director General of Police, Andhra Pradesh, Mangalagiri, Guntur District [by RPAD]
3. The Commissioner of Police, Visakhapatnam City [by RPAD]

4. The Secretary, Ministry of Industries, Union of India, New Delhi [by RPAD]
5. The Secretary, Ministry of Environment and Pollution, Union of India, New Delhi [by RPAD]
6. The District Collector, Visakhapatnam District [by RPAD]
7. The Superintendent, King George Hospital, Visakhapatnam [by RPAD]
8. M/s. LG Polymers Ltd., LG Polymers RD RRV Puram, Naidu Thota, Visakhapatnam, Andhra Pradesh 530029 [by RPAD]
9. The Principal Secretary, State of Andhra Pradesh, Department of Industries, Secretariat, Andhra Pradesh [by RPAD]
10. The Commissioner, Department of Industries, O/o First Floor, Government Regional Printing Press Buildings, Mutyalampadu St, Vijayawada, 520011 [by RPAD]
11. The Proprietor, LG Polymers Pvt. Ltd., RR Venkatapuram, Vishalapatnam, Andhra Pradesh-530029 [by RPAD]
12. The Director, LG Polymers Pvt. Ltd., RR Venkatapuram, Vishalapatnam, Andhra Pradesh 530029 [by RPAD]
13. The Under Secretary, Union of India, Ministry of Home Affairs, New Delhi [by RPAD]
14. The Secretary, Union of India, Ministry of Environment, Forest and Climatic Changes, New Delhi [by RPAD]
15. The Director, Central Bureau of Investigation, Plot No.5-B, 6<sup>th</sup> Floor, CGO Complex, Lodhi Road, Jawaharlal Nehru Stadium Marg, Delhi 110003 [by RPAD]
16. The Secretary, State of Andhra Pradesh, Ministry of Environment, Forest and Climatic Changes, Velagapudi, Amaravathi [by RPAD]
17. The Secretary, State of Andhra Pradesh, Home Department, Velagapudi, Amaravathi [by RPAD]

18. The Secretary, State of Andhra Pradesh, General Administration Department [SC.I], Velagapudi, Amaravathi [by RPAD]
19. The Member Secretary, Central Pollution Control Board, Parivesh Bhawan, Maharshi Valmiki Marg, East Arjun Nagar, Vishwas Nagar, Extension, Shandara, Delhi 1100032 [by RPAD]
20. Member Secretary, A.P. Pollution Control Board, Kadiyala Vari St, Moghalrajpuram, Suryaraopeta, Vijayawada, Andhra Pradesh 520002 [by RPAD]
21. The Collector and District Magistrate, Krishnagar, Maharani Peta, Visakhapatnam, Andhra Pradesh 530002 [by RPAD]
22. Commissioner of Labour, Kovbetamudivari Street, Suryaraopeta, Vujayawada, Andhra Pradesh 520002 [by RPAD]
23. The Commissioner, Visakhapatnam Municipal Corporation, Chitralaya Rd, Suryabagh, Jagadamba Junction, Visakhapatnam, Andhra Pradesh 530020 [by RPAD]
24. Chief Inspector of Factories, Department of Fectories, Yadavula Bazar, Benz Circle, Vijayawada, Andhra Pradesh 520008 [by RPAD]
25. The State Crisis Group, Vijayawada, Krishna District [by RPAD]
26. The Central Crisis Group, New Delhi [by RPAD]
27. The Managing Director, M/s. LG Polymers India Pvt. Ltd., Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029 [by RPAD]
28. The Managing Director, M/s. LG Chem, LG Twin Towers, 128 Yeoui-daer Yeongdeungpo-gu Seoul Korea, Republic of South [by RPAD]
29. Mr. Byungkeun Song, Director, M/s. LG Polymers India Pvt. Ltd., Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029 [by RPAD]

- 30.Mr. Hyun Seok Jang, Director, MIS LG Polymers India Pvt. Ltd., Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029 [by RPAD]
- 31.Mr. Sunkey Jeong, Director, MIS LG Polymers India Pvt. Ltd., Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029 [by RPAD]
- 32.Mr. Poorna Chandra Mohan Rao Pitchuka, Director M/s. LG Polymers India Pvt. Ltd., Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029 [by RPAD]
- 33.Mr. Chan Sik Chung, Director, MIS LG Polymers India Pvt. Ltd., Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029 [by RPAD]
- 34.One CC to Sri Y.V.Ravi Prasad,Amicus Curie [by mail]
- 35.One CC to Sri Josyula Bhaskar Rao,S.C. for Central Govt. [OPUC]
- 36.One CC to Sri D.Narendra Naik,Advocate [OPUC]
- 37.One CC to Sri Ch. Markondaiah, Advocate [OPUC]
- 38.One CC to Sri Sri Sai Sanjay Suraneni, Advocate [OPUC]
- 39.One CC to Sri D.Narendra Naik, Avocate [OPUC]
- 40.One CC to Sri S.Ravi, Advocate [OPUC]
- 41.One CC to Sri S.Sriram, Advocate [OPUC]
- 42.Two CC to the Advocate General, High Court of A.P. [OUT]
- 43.Two CC to N.Harinath, Assistant General [OUT]
- 44.Two CC to G.P. for Industries and Commerce, High Court of A.P. [OPUC]
- 45.One spare copy.

MSR

HIGH COURT

HCJ

AND

LKJ

DATED : 22/05/2020

NOTE : LIST THESE CASES ON 28.05.2020

ORDER

WP[PIL] NO.112 OF 2020

WP[PIL] NO.117 OF 2020

AND

WP[PIL] NO.119 OF 2020

DIRECTION

**TYPED COPY**

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI  
FRIDAY THE TWENTY SECOND DAY OF MAY,  
TWO THOUSAND AND TWENTY

.,PRESENT:

THE HON'BLE THE CHIEF JUSTICE JITENDRA KUMAR MAHESHWARI  
AND  
THE HON'BLE SMT JUSTICE LALITHA KANNEGANTI

WP (PIL) NO: 112 OF 2020

WP (PIL) NO: 117 OF 2020

AND

WP (PIL) NO: 119 OF 2020



**WP (PIL) NO. 112 OF 2020**

**Between:**

TAKEN UP, Polsonous gas leakage in Visakhapatnam

... Petitioner

**AND**

1. State Of Andhra Pradesh, Rep. by the chief secretary, Secretary, Velagapudi, Amaravati
2. Director General of Police, Andhra Pradesh, Mangalagiri, Guntur District
3. Commission of Police, Visakhapatnam City
4. Union of India, Rep by the Secretary, Ministry of Industries, New Delho
5. Union of India, Rep by the Secretary, Ministry of Environment and Pollution, New Delhi
6. The District Collector, Visakhapatnam District
7. The Superintendent, King George Hospital, Visakhapatnam
8. M/s. LG Polymers ltd., LG Polymers RD RRV Puram, Naidu Thota, Visakhapatnam, Andhra Pradesh 530029

...Respondents

Writ Petition under Article 226 of the Constitution of India praying to issue a Writ, order or direction, in the nature of mandamus or any other appropriate writ calling for the records relating to the incident of leakage of poisonous gas form LG Polymers factory at Visakhapatnam at about 2.30 a.m on the intervening night of 06.5.2020/07.05.2020, to direct the Respondents to take all necessary steps for saving the lives of the people in and around the said factory, to provide all necessary medical treatment to the persons who are admitted into various hospitals and to provide necessary facilities to the persons evacuated to safer places and also to issue necessary directions to avoid such incidents in future and to grant other relief/s as the Hon'ble Court may deem fit and proper in the circumstances.

The Writ Petitions coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and the order of the High Court order dated 07.05.2020 in WP (PIL) No. 112 of 2020 made herein and upon hearing the arguments of Sri Y.V. Ravi Prasad, Amicus Curiae, for the petitioner, Sri S.Sriram, Advocate General, for the Respondents Nos. 1, 2, 3, 6, 7, of Sri Josyula Bhaskar Rao, S.C. for Central Govt., for Respondents No.4 and 5 and of Sri D.Narendra Naik, for Respondent No.8.:

**WP (PIL) NO: 117 OF 2020**

**Between:**

Rapolu Bhaskar, S/o Late Rapolu Ramulu, Occ: Advocate, R/o Flat No.501, Vaishnavi Nest Apartments, Indira Nagar, Beside IKON Hospital, Dilsukhnagar, Hyderabad- 500 036. CelL- 9848498029

... Petitioner

**AND**

1. The State of Andhra Pradesh, Rep. by its Principal Secretary, Department of Industries, Secretariat, Andhra Pradesh.
2. The Commissioner, Department of Industries, O/o First Floor, Government Regional Printing Press Buildings, Mutyalampadu St, Vijayawada, 520 011,
3. The Proprietor, LG Polymers Pvt. Ltd, RR Venkatapuram, Vishakapatnam, Andhra Pradesh-530 029.
4. The Director, LG Polymers Pvt. Ltd, RR Venkatapuram, Vishalcapatnam, Andhra Pradesh-530 029

...Respondents

Writ Petition under Article 226 of the Constitution of India praying to issue a Writ, Order or a Direction more Particularly in the nature of a Writ of Mandamus declaring the action of the respondents in not providing financial assistance and medical facilities to the affected people at Vishakhapatnam in the State of Andhra Pradesh and to direct the concerned authorities to take the action against the respondents who were responsible to cause this gas incident and to direct respondents to provide the best medical facilities to the injured persons and also to direct to the LG Polymers company management to give the compensation of Rs. 2 crores to the deceased families and Rs. 50 Lakhs to every injured persons and Rs.50,000 to the deceased cattle as well as Rs.5,00,000 to the damaged standing crop of the farmers and also to direct the company authorities to take full responsibilities to provide the medical facilities for the consequences of health issues in future and also immediately seize the company at present and also to direct to shift the company far from the Vishakhapatnam and also to direct the authorities to provide the double bedroom houses to the deceased people families under Apadbandhu Padakam and also ask the concerned authorities to submit the reports of regarding LG polymers gas leakage incident and safety measures by the respondents and concerned officers in the interest of justice.

**IA NO: 1 OF 2020**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents forthwith to provide financial assistance and medical facilities to the affected people at Vishakhapatnam in the State of Andhra Pradesh and also to direct the respondents to take the action against the respondents who were responsible to cause this gas incident and to direct respondents to provide the best medical facilities to the injured persons and also to direct to the LG Polymers company management to give the compensation of Rs. 2 crores to the deceased families and Rs. 50 Lakhs to every injured persons and Rs.50,000 to the deceased cattle as well as Rs.5,00,000 to the damaged standing crop of the farmers and also to direct the company authorities to take full responsibilities to provide the medical facilities for the consequences of health issues in future and also immediately seize the company at present and also to direct to shift the company far from the Vishakhapatnam and also to direct the authorities to provide the double bedroom houses to the deceased people families under Apadbandhu Padakam and also ask the concerned authorities to submit the reports of regarding LG polymers gas leakage incident and safety measures by the respondents and concerned officers for the pending disposal of the above writ petition (PIL) No. 117 of 2020, on the file of the High Court.

The Writ Petitions coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and the order of the High Court order dated 07.05.2020 in WP (PIL) No. 112 of 2020 made herein and upon hearing the arguments of Sri Sri Ch. Markondaiah, Advocate for the Petitioner, of Sri S.Sriram, Advocate General, for the Respondent No.1 and of G.P. for Industries & Commerce, for Respondent No. 2:

**WP (PIL) NO: 119 OF 2020**

**Between:**

Ramakumar Sabbavarapu, S/o. S. Eswar Rao, Aged 38 years, R/o Door No. 2-1, Pinagadi Village, Pendurthi Mandal, Visakhapatnam 531173

... **Petitioner**

**AND**

1. The Union of India, Rep. by its Under Secretary, Ministry of Home Affairs, New Delhi.
2. The Union of India, Rep. by its Secretary, Ministry of Environment, Forest and Climatic Changes, New Delhi.
3. The Central Bureau of Investigation, Rep. by its Director, Plot No. 5-B, 6th Floor, CGO Complex, Lodhi Road, Jawaharlal Nehru Stadium Marg, Delhi 110003.
4. The State of Andhra Pradesh, Rep. by its Principal Secretary, Department of Industries, Velagapudi, Amaravathi.
5. The State of Andhra Pradesh, Rep. by its Secretary, Ministry of Environment, Forest and Climatic Changes, Velagapudi, Amaravathi.
6. The State of Andhra Pradesh, Rep. by its Secretary, Home Department, Velagapudi, Amaravathi.
7. The State of Andhra Pradesh, Rep. by its Secretary, General Administration Department (SC.D), Velagapudi, Amaravathi.
8. Central Pollution Control Board, Rep. by its Member Secretary, Parivesh Bhawan, Maharshi Valmiki Marg, East Arjun Nagar, Vishwas Nagar Extension, Shandara, Delhi, 110032.

9. A.P. Pollution Control Board, Rep. by its Member Secretary, Kadiyala Vari St, Moghalrajpuram, Suryaraopeta, Vijayawada, Andhra Pradesh 520002.
10. The Collector and District Magistrate, Address. Krishnagar, Maharani Peta, Visakhapatnam, Andhra Pradesh 530002.
11. Commissioner of Labour, Kovelamudivari Street, Suryaraopeta, Vijayawada, Andhra Pradesh 520002.
12. Visakhapatnam Municipal Corporation, Rep. by its Commissioner, Chitralaya Rd, Suryabagh, Jagadamba Junction, Visakhapatnam, Andhra Pradesh 530020.
13. Chief Inspector of Factories, Department of Factories, Yadavula Bazar, Benz Circle, Vijayawada, Andhra Pradesh 520008.
14. State Crisis Group, Vijayawada, Krishna District.
15. Central Crisis Group, New Delhi
16. M/S LG Polymers India Pvt. Ltd., Rep. by its Managing Director, Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029.
17. LG Chem, Rep. by its Managing Director, LG Twin Towers, 128 Yeoui-daer Yeongdeungpo-gu Seoul Korea, Republic of (South)
18. Byungkeun Song, Director, M/S LG Polymers India Pvt. Ltd, Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029.
19. Hyun Seok Jang, Director, MIS LG Polymers India Pvt. Ltd, Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029.
20. Sunkey Jeong, Director, MIS LG Polymers India Pvt. Ltd, Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029.
21. Pooma Chandra Mohan Rao Pitchuka, Director, M/S LG Polymers India Pvt. Ltd, Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029.
22. Chan Sik Chung, Director, MIS LG Polymers India Pvt. Ltd, Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029.

**...Respondents**

Writ Petition under Article 226 of the Constitution of India praying 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) i. Declaring G.O. Rt. No. 449 dt 08.05.2020 and G.O. Rt. No. 803 dt 07.05.2020 as illegal and arbitrary to the extent that the State Government has ordered to pay compensation to the parties affected by the escape of Styrene Gas at about 3.30 AM on 07.05.2020 from the factory owned by LG Polymers India Pvt.Ltd in R.R.Venkatapuram Village, Pendurthy Mandal, Visakhapatnam(Gas Leakage or Incident) and consequently direct LG Polymers India Pvt Ltd. to pay the said compensation in the place and stead of the State Government. ii. Declaring the Schedule under Section 3(1) of The Public Liability Insurance Act, 1991 to be grossly inadequate and manifestly arbitrary and consequently revise the specified quantum of money payable as reliefs and/or direct the Union of India to revise the same as deemed fit and proper by this Hon'ble Court. iii. Directing the continuous implementation of Section 5, 6 and 7 of The Public Liability Insurance Act, 1991 and submission of weekly press reports by the District Collector, Visakhapatnam. iv. Directing LG Polymers India Pvt Ltd to state on affidavit all the compliances, standard operating procedures, permissions, insurance policies and other actions taken by it ensure the safety of its factory in R.R.Venkatapuram Village, Pendurthy Mandal, Visakhapatnam, India (Unit or Factory). v. Directing the Respondents to permanently close down the Factory and/or shift the Factory from the densely populated area to a suitable location. vi. Directing the Union of India to entrust the Central Bureau of Investigation or any other special/independent investigation agency to investigate into the Gas Leakage and if necessary, initiate prosecution against the persons responsible for the said incident including officials of the Government of Andhra Pradesh and LG Polymers India Pvt Ltd. vii. Directing the investigation authority to submit periodical status reports on the progress of the investigation into the Gas Leakage to this Hon'ble Court. viii. Directing the concerned departments to take action against the Officials departmentally for their negligent acts which led to the Gas Leakage. ix. Directing the Government of Andhra Pradesh to identify all other factories and industries in Andhra Pradesh which are flouting the applicable laws and take appropriate action against the said persons

The Writ Petitions coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and the order of the High Court order dated 07.05.2020 in WP (PIL) No. 112 of 2020 made herein and upon hearing the arguments of Sri Sai Sanjay Suraneni, Advocate for the Petitioner, of Sri N. Harinath, Assistant Solicitor General for Respondent Nos.1 &2, of Sri S.Ravi, Senior Counsel for Sri D. Ravindra Naik, Advocate for Respondent Nos.16 to 22 and of Sri S.Sriram, Advocate General, for the Respondent Nos. 4, 5, 6, 7, 11, 13 & 14:

The Court made the following ORDER:

“Heard learned counsel appearing on behalf of petitioners and respondents in all the cases.

This Court on 07.05.2020 *suo-motu* has taken up the issue regarding leakage of Styrene Gas in Vizag and passed slew of directions to the respondents and also to file action taken reports by 20.05.2020. Both the State Government as well as Central Government filed their respective affidavits along with material to show the efforts made by them.

In the meantime, two Writ Petitions have been filed bearing W.P.Nos.117 of 2020 and 119 of 2020. In those Writ Petitions, certain issues have been raised. In addition to those issues and having regard to the following issues, explanation is necessary:

- *LG Polymers has been operating without a valid Environmental Clearance from the Ministry of Environment, Forests and Climate Change (MoEFCC).*
- *Dr.EASSarma (Former Energy Secretary/GOI) who filed a PIL in AP High Court over this issue, has included the report prepared by the duo (SagarDhara and K Babu Rao).*
- *The inhibitor concentration in the storage tank was not checked. Refrigeration system was not working properly.*
- *The radius of the vulnerable zone extended upto 6.3 Km from the source.*
- *There are several hospitals, educational institutions, places of worship, railway stations and airport within the vulnerable zone.*
- *Bystander population should have been informed of the risk they were at and trained in evacuation procedures in the event of an accident as per Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989. But, this has not been done.*
- *The siren/alarm system did not function.*

The replies filed by the State Government and Central Government are silent on the said issues.

The Advocate General and the Counsel appearing on behalf of the Assistant Solicitor General prays for time to apprise this Court and to file affidavit on the above said queries. Further, the reply is also necessary on the following issues:

- *What is the net worth of LG Polymers Pvt. Ltd., as per the provisions of the Companies Act, but not as per the book value.*
- *After registration of crime, on appointment of the investigation/inspection team and also when Magisterial enquiry was required, why, without appointment of the said panel or permission of the Court, Styrene Monomer has been permitted to be transported to South Korea and who is the person responsible for the same?*

After hearing the learned counsel appearing on behalf of both the parties, subject to filing reply by other side, we issue the following interim directions:

- i) The premises of the Company shall be completely seized and no one be allowed to enter into the premises including the Directors of the Company.
- ii) The Committee, if any, appointed wants to inspect the premises, they are at liberty but they shall put a note on the Register maintained at the gate of the Company regarding the said inspection and while returning, a note regarding the act done in the premises be also noted.
- iii) We further direct that none of the assets, movable or immovable, fixture, machinery and contents shall be allowed to be shifted without the leave of the Court.

- iv) As stated before the Court, the Directors of the Company have surrendered their passport and they are in India, however, we direct that their passports shall not be released without the leave of the Court and they be not allowed to go outside to India without leave.
- v) It be also apprised whether, during the lock down period, any permissions were obtained to restart the operations; if not, action taken report in this regard be filed.
- vi) In regard to the grievance shown regarding appointment of various Committees by the National Green Tribunal, Central Government and State Government; the Central Government and State Government are at liberty to apprise as to which Committee shall fulfill the purpose to answer all the quests in issue.

We direct the respondents to file the compliance report by 26.05.2020.  
List these cases on 28.05.2020."

Sd/- M.S.V.NAVEEN CHANDRA  
ASSISTANT REGISTRAR

//TRUE COPY//

  
For ASSISTANT REGISTRAR

- To,
1. The Chief Secretary, State Of Andhra Pradesh, Secretariat, Velagapudi, Amaravati (by RPAD)
  2. The Director General of Police, Andhra Pradesh, Mangalagiri, Guntur District (by RPAD)
  3. The Commission of Police, Visakhapatnam City (by RPAD)
  4. The Secretary, Ministry of Industries, Union of India, New Delhi (by RPAD)
  5. The Secretary, Ministry of Environment and Pollution, Union of India, New Delhi (by RPAD)
  6. The District Collector, Visakhapatnam District (by RPAD)
  7. The Superintendent, King George Hospital, Visakhapatnam (by RPAD)
  8. M/s. LG Polymers Ltd., LG Polymers RD RRV Puram, Naidu Thota, Visakhapatnam, Andhra Pradesh 530029 (by RPAD)
  9. The Principal Secretary, State of Andhra Pradesh, Department of Industries, Secretariat, Andhra Pradesh. (by RPAD)
  10. The Commissioner, Department of Industries, 0/o First Floor, Government Regional Printing Press Buildings, Mutyalampadu St, Vijayawada, 520 011, (by RPAD)
  11. The Proprietor, LG Polymers Pvt. Ltd, RR Venkatapuram, Vishakapatnam, Andhra Pradesh-530 029. (by RPAD)
  12. The Director, LG Polymers Pvt. Ltd, RR Venkatapuram, Vishalcapatnam, Andhra Pradesh-530 029 (by RPAD)
  13. The Under Secretary, Union of India, Ministry of Home Affairs, New Delhi. (by RPAD)
  14. The Secretary, Union of India, Ministry of Environment, Forest and Climatic Changes, New Delhi. (by RPAD)
  15. The Director, Central Bureau of Investigation, Plot No. 5-B, 6th Floor, CGO Complex, Lodhi Road, Jawaharlal Nehru Stadium Marg, Delhi 110003. (by RPAD)
  16. The Secretary, State of Andhra Pradesh, Ministry of Environment, Forest and Climatic Changes, Velagapudi, Amaravathi. (by RPAD)
  17. The Secretary, State of Andhra Pradesh, Home Department, Velagapudi, Amaravathi. (by RPAD)
  18. The Secretary, State of Andhra Pradesh, General Administration Department (SC.I), Velagapudi, Amaravathi. (by RPAD)
  19. The Member Secretary, Central Pollution Control Board, Parivesh Bhawan, Maharshi Valmiki Marg, East Arjun Nagar, Vishwas Nagar Extension, Shandara, Delhi, 110032. (by RPAD)
  20. Member Secretary, A.P. Pollution Control Board, Kadiyala Vari St, Moghalrajpuram, Suryaraopeta, Vijayawada, Andhra Pradesh 520002. (by RPAD)
  21. The Collector and District Magistrate, Krishnagar, Maharani Peta, Visakhapatnam, Andhra Pradesh 530002. (by RPAD)
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  23. The Commissioner, Visakhapatnam Municipal Corporation, Chitralaya Rd, Suryabagh, Jagadamba Junction, Visakhapatnam, Andhra Pradesh 530020. (by RPAD)
  24. Chief Inspector of Factories, Department of Factories, Yadavula Bazar, Benz Circle, Vijayawada, Andhra Pradesh 520008. (by RPAD)
  25. The State Crisis Group, Vijayawada, Krishna District. (by RPAD)
  26. The Central Crisis Group, New Delhi (by RPAD)
  27. The Managing Director, M/S LG Polymers India Pvt. Ltd., Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029. (by RPAD)

28. The Managing Director, LG Chem, LG Twin Towers, 128 Yeoui-daer Yeongdeungpo-gu Seoul Korea, Republic of (South) (by RPAD)
29. Mr. Byungkeun Song, Director, M/S LG Polymers India Pvt. Ltd, Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029. (by RPAD)
30. Mr. Hyun Seok Jang, Director, MIS LG Polymers India Pvt. Ltd, Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029. (by RPAD)
31. Mr. Sunkey Jeong, Director, MIS LG Polymers India Pvt. Ltd, Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029. (by RPAD)
32. Mr. Pooma Chandra Mohan Rao Pitchuka, Director, M/S LG Polymers India Pvt. Ltd, Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029. (by RPAD)
33. Mr. Chan Sik Chung, Director, MIS LG Polymers India Pvt. Ltd, Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029. (by RPAD)
34. One CC to Sri Y.V. Ravi Prasad, Amicus Curiae (by Mail)
35. One CC to Sri Josyula Bhaskar Rao, S.C. for Central Govt., (OPUC)
36. One CC to Sri D.Narendra Naik, Advocate (OPUC)
37. One CC to Sri Ch. Markondaiah, Advocate (OPUC)
38. One CC to Sri Sri Sai Sanjay Suraneni, Advocate (OPUC)
39. One CC to Sri D.Narendra Naik, Advocate (OPUC)
40. One CC to Sri S.Ravi, Advocate (OPUC)
41. One CC to Sri S.Sriram, Advocate (OPUC)
42. Two CC to THE ADVOCATE GENERAL Advocate [OUT]
43. Two CC to N. Harinath, Assistant Solicitor General (OUT)
44. Two CC to G.P. for Industries & Commerce, High Court of A.P. [OPUC]
45. One spare copy

MSR

HIGH COURT

HCJ  
&  
LKJ

DATED: 22/05/2020

23 MAY 2020

NOTE : LIST THESE CASES ON 28.05.2020.

ORDER

WP(PIL).NO.112 OF 2020  
WP(PIL).NO.117 OF 2020  
AND  
WP(PIL).NO.119 OF 2020

DIRECTION

TRUE COPY

ITEM NO.21

Virtual Court No.1

SECTION XII-A

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 11636/2020

(Arising out of impugned final judgment and order dated 22-05-2020 in WPIL No. 112/2020 22-05-2020 in WPIL No. 117/2020 22-05-2020 in WPIL No. 119/2020 passed by the High Court Of Andhra Pradesh At Amravati)

M/S LG POLYMERS INDIA PVT. LTD.

Petitioner(s)

VERSUS

THE STATE OF ANDHRA PRADESH & ORS.

Respondent(s)

Date : 26-05-2020 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT  
HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR  
HON'BLE MR. JUSTICE VINEET SARAN

For Parties:

Mr. Mukul Rohatgi, Sr. Adv.  
Ms. Pallavi Shroff, Adv.  
Mr. Muthu Thangathurai, Adv.  
Mr. Anuj Berry, Adv.  
Mr. S. S. Shroff, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following  
O R D E R

The order dated 22.5.2020 passed by the High Court of Andhra Pradesh at Amravathi is under challenge in the present proceedings.

While dealing with two Writ Petitions namely W.P.(Pil) Nos. and 119 of 2020, the High Court directed the State Government and the Central Government to respond to certain queries posed by the High Court. Those queries were as under:

“.What is the net worth of LG Polymers Pvt. Ltd., as per the provisions of the Companies Act, but not as per the book value.

.After registration of crime, an appointment of the investigation/inspection team and also when Magisterial enquiry was required, why, without appointment of the said panel or permission of the Court, Styrene Monomer has been permitted to be transported to South Korea and who is the person responsible for the same?

Thereafter, certain interim directions were passed which for facility are set out hereunder:

“i) The premises of the Company shall be completely seized and no one be allowed to enter into the premises including the Directors of the Company.

ii) The Committee, if any, appointed wants to inspect the premises, they are at liberty but they shall put a note on the Register maintained at the gate of the Company regarding the said inspection and while returning, a note regarding the act done in the premises be also noted.

iii) We further direct that none of the assets, movable or immovable, fixture machinery and contents shall be allowed to be shifted without the leave of the Court.

iv) As stated before the Court, the Directors of the Company have surrendered their passport and they are in India, however, we direct that their passports shall not be released without the leave of the Court and they be not allowed to go outside to India without leave.

v) It be also apprised whether, during the lock down period, any permissions were obtained to restart the operations, if not, action taken report in this regard be filed.

vi) In regard to the grievance shown regarding appointment of various Committees by the National Green Tribunal, Central Government and State Government; the Central Government and State Government are at liberty to apprise as to which Committee shall fulfill the purpose to answer all the quests in issue.”

Mr. Mukul Rohatgi, learned Senior Advocate appearing for the petitioner submitted that a complete seizure or sealing of plant/premises will have tremendous adverse consequences and impact. It was submitted that the temperature of the plant cannot be allowed to go beyond 25° C; and if by any chance because of lack of adequate attention or safety measures, if the temperature goes beyond 25° C situation can have some ill effects. He, therefore, submitted that atleast 28 technical personnel and two administrative officials/incharge must be given emergency access to the plant/premises at any given point of time so that adequate safety measures are undertaken round the clock. Mr. Rohatgi submitted that the list of these 30 personnel can be furnished to the District Collector by 4.00P.M. today so that access to those persons to such areas of the plant as are necessary can always be ensured.

It was further submitted that at the intermediate stages of manufacture, the Polymers that the petitioner manufactures can have toxic effects and therefore adequate safety measures have to be undertaken every time. He further submitted that the premises in question also house the administrative and Law Offices of the Company and in case the entirety of the premises are seized/sealed, the operation of the company will stand seriously prejudiced. It was submitted that the products lying for clearance be allowed to be cleared so that there are no adverse financial effects on the Company.

It was submitted that the inspections to be carried pursuant to the directions issued by the High Court must be in the presence

of officials of the Company so that adequate assistance as well as complete knowledge about the processes undertaken by the petitioner could also be highlighted sufficiently.

Mr. Rohatgi further submitted that one of the applications is also directed to be listed before the High Court on 27.5.2020.

Though, *prima facie*, we see force in the submissions, considering the fact that the compliance report was directed to be filed by 26.5.2020 and the matters may be taken up on 27.5.2020 & 28.5.2020, we give liberty to the petitioner to place all these issues and aspects for consideration by the High Court.

As an *ad interim* measure, we permit the petitioner to give a list of 30 personnel as discussed hereinabove. Upon such names being given to the District Collector, those persons shall be afforded access to the plant round the clock to maintain adequate safety measures.

This *ad interim* direction will continue till the High Court considers the matter. The High Court may, thereafter, pass appropriate directions.

All the submissions as noted above may be raised before the High Court.

List alongwith Civil Appeal Diary No(s). 11327/2020 on 8.6.2020.

(INDU MARWAH)  
COURT MASTER (SH)

(PRADEEP KUMAR)  
BRANCH OFFICER

TRUE COPY

**ANNEXURE - I**

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI  
FRIDAY THE TWENTY NINTH DAY OF MAY,  
TWO THOUSAND AND TWENTY

:PRESENT:

THE HON'BLE THE CHIEF JUSTICE JITENDRA KUMAR MAHESHWARI  
AND  
THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WP [PIL] NO: 112 OF 2020

WP [PIL] NO:117 OF 2020

AND

WP [PIL] NO: 119 OF 2020

**WP [PIL] NO.112 OF 2020**

Between :

TAKEN UP, Poisonous gas leakage in Visakhapatnam

... Petitioner

AND

1. State of Andhra Pradesh, Rep. by the Chief Secretary, Secretary,  
Velagapudi, Amaravati
2. Director General of Police, Andhra Pradesh, Mangalagiri, Guntur District
3. Commissioner of Police, Visakhapatnam City
4. Union of India, Rep. by the Secretary, Ministry of Industries, New Delhi
5. Union of India, Rep by the Secretary, Ministry of Environment and  
Pollution, New Delhi
6. The District Collector, Visakhapatnam District
7. The Superintendent, King George Hospital, Visakhapatnam
8. M/s. LG Polymers Ltd., LG Polymers RD rrv Puram, Naidu Thota,  
Visakhapatnam, Andhra Pradesh 530029

... Respondents

Writ Petition under Article 226 of the Constitution of India praying to issue a Writ, order or direction, in the nature of mandamus or any other appropriate writ calling for the records relating to the incident of leakage of poisonous gas from LG Polymers factory at Visakhapatnam at about 2.30 a.m. on the intervening night of 06.5.2020 / 07.05.2020, to direct the Respondents to take all necessary steps for saving the lives of the people in and around the said factory, to provide all necessary medical treatment to the persons evacuated to safer places and also to issue necessary directions to avoid such incidents in future and to grant other relief/s as the Hon'ble Court may deem fit and proper in the circumstances.

**IA NO: 2 OF 2020**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant leave and permitting the respondent No.8 Company to take out and sell the finished goods/products i.e. 1505.05 MT of Polystyrene, 2621.12 MT of Expandable Polysterene, and 361.193 MT of Engineered Plastics Compound which were manufactured prior to 24.03.2020 and are presently stored in godowns at the Plant.

**IA NO: 3 OF 2020**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to lift the seizure order and direct the State to allow ingress and egress of all personnel including the Directors of the Company into the premises of the RespondentNo.8 company including to accompany the Members of various Committees during

inspection/enquiries and pass such other order or orders as this Hon'ble Court may deem fit and necessary in the given facts and circumstances of the case.

The Writ Petitions coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and the order of the High Court order dated 07.05.2020 in WP[PIL] No.112 of 2020 and dated 22.05.2020 in WP[PIL] Nos.112, 117 and 119 of 2020 made herein and upon hearing the arguments of Sri Y.V. Ravi Prasad, Amicus Curiae, for the petitioner, Sri S.Sriram, Advocate General, for the Respondents Nos.1, 2, 3, 6 and 7, of Sri Josyula Bhaskar Rao, S.C for Central Govt., for Respondents No.4 and 5 and of Sri D.Narendra Naik, for Respondent No.8;

**WP [PIL] NO: 117 of 2020**

Between:

Rapolu Bhaskar, S/o. Late Rapolu Ramulu, Occ: Advocate, R/o. Flat No.501, Vaishnavi Nest Apartments, Indira Nagar, Beside IKON Hospital, Dilsukhnagar, Hyderabad-500036, Cell 9848498029

... Petitioner

AND

1. The State of Andhra Pradesh, Rep. by its Principal Secretary, Department of Industries, Secretariat, Andhra Pradesh.
2. The Commissioner, Department of Industries, O/o First Floor, Government Regional Printing Press Buildings, Mutyalampadu St, Vijayawada, 520011
3. The Proprietor, LG Polymers Pvt. Ltd., RR Venkatapuram, Vishakapatnam, Andhra Pradesh-530029

4. The Director, LG Polymers Pvt. Ltd., RR Venkatapuram, Vishakapatnam, Andhra Pradesh-530029

... Respondents

Writ Petitioner under Article 226 of the Constitution of India praying to issue a Writ, Order or a Director more particularly in the nature of a Writ of Mandamus declaring the action of the respondents in not providing financial assistance and medical facilities to the affected people at Vishakhapatnam in the State of Andhra Pradesh and to direct the concerned authorities to take the action against the respondents who were responsible to cause this gas incident and to direct respondents to provide the best medical facilities to the injured persons and also to direct to the LG Polymers company management to give the compensation of Rs.2 crores to the deceased families and Rs.50 Lakhs to every injured persons and Rs.50,000 to the deceased cattle as well as Rs.5,00,000 to the damaged standing crop of the farmers and also to direct the company authorities to take full responsibilities to provide the medical facilities for the consequences of health issues in future and also immediately seize the company at the present and also to direct to shift the company far from the Vishakhapatnam and also to direct the authorities to provide the double bedroom houses to the deceased people families under Apadhbandhu Padakam and also ask the concerned authorities to submit the reports of regarding LG polymers gas leakage incident and safety measures by the respondents and concerned officers in the interest of justice.

**IA NO: 1 of 2020**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents forthwith to provide financial assistance and medical facilities to the affected people at Vishakhapatnam in the State of Andhra Pradesh

and also to direct the respondents to take the action against the respondents who were responsible to cause this gas incident and to direct respondents to provide the best medical facilities to the injured persons and also to direct to the LG Polymers company management to give the compensation of Rs.2 crores to the deceased families and Rs.50 lakhs to every injured persons and Rs.50,000 to the deceased cattle as well as Rs.5,00,000 to the damaged standing crop of the farmers and also to direct the company authorities to take full responsibilities to provide the medical facilities for the consequences of health issues in future and also immediately seize the company at present and also to direct to shift the company far from the Vishakhapatnam and also to direct the authorities to provide the double bedroom houses to the deceased people families under Apadhbandhu Padakam and also ask the concerned authorities to submit the reports of regarding LG polymers gas leakage incident and safety measures by the respondents and concerned officers for the pending disposal of the above Writ Petition [PIL] No.117 of 2020, on the file of the High Court.

The Writ Petitions coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and the order of the High Court order dated 07.05.2020 in WP (PIL) No. 112 of 2020 and dated 22.05.2020 in WP (PIL) Nos. 112, 117 and 119 of 2020 made herein and upon hearing the arguments of Sri Sri Ch. Markondaiah, Advocate for the Petitioner, of Sri S.Sriram, Advocate General, for the Respondent No.] and of G.P. for Industries & Commerce, for Respondent No. 2;

**WP [PIL] NO: 119 of 2020**

Between:

Ramkumar Sabb Avarapu, S/o S.Eswar Rao, Aged 38 years, Rio Door  
No.2-1, Pinagadi Village, Pendurthi Mandal, Visakhapatnam 530073

...Petitioner

AND

1. The Union of India, Rep. by its Under Secretary, Ministry of Home Affairs, New Delhi.
2. The Union of India, Rep. by its Secretary, Ministry of Environment, Forest and Climatic Changes, New Delhi.
3. The Central Bureau of Investigation, Rep. by its Director, Plot No.5-B, 6<sup>th</sup> Floor, CGO Complex, Lodhi Road, Jawaharlal Nehru Stadium Marg, Delhi – 110003
4. The State of Andhra Pradesh, Rep. by its Secretary, Ministry of Environment, Forest and Climatic Changes, Velagapudi, Amaravathi.
5. The State of Andhra Pradesh, Rep. by its Secretary, Ministry of Environment, Forest and Climatic Changes, Velagaudi, Amaravathi.
6. The State of Andhra Pradesh, Rep. by its Secretary, Home Department, Velagapudi, Amaravathi.
7. The State of Andhra Pradesh, Rep. by its Secretary, General Administration Department [SC.I], Velagapudi, Amaravathi.
8. Central Pollution Control Board, Rep. by its Member Secretary, Kadiyala Vari St., Moghalrajpuram, Suryaraopeta, Vijayawada, Andhra Pradesh 520002.
9. A.P. Pollution Control Board, Rep. by its Member Secretary, Kadiyala Vari St., Moghalrajpuram, Suryaraopeta, Vijayawada, Andhra Pradesh 520002.
10. The Collector and District Magistrate, Address Krishnagar, Maharani Peta, Visakhapatnam, Andhra Pradesh 530002.

11. Commissioner of Labour, Kovelamudivari Street, Suryaraopeta, Vijayawada, Andhra Pradesh 520002.
12. Visakhapatnam Municipal Corporation, Rep. by its Commissioner, Chitralaya Rd, Suryabagh, Jagadamba Junction, Visakhapatnam, Andhra Pradesh 530020.
13. Chief Inspector of Factories, Department of Factories, Yadavula Bazar, Benz Circle, Vijayawada, Andhra Pradesh 520008.
14. State Crisis Group, Vijayawada, Krishna District.
15. Central Crisis Group, New Delhi
16. M/s. LG Polymers India Pvt. Ltd., Rep. by its Managing Director, Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029
17. LG Chem, Rep. by its Managing Director, LG Twin Towers, 128 Yeouidaer Yeongdeungpo-gu Seoul Korea, Republic of [South].
18. Byungkeun Song, Director, M/s. LG Polymers India Pvt. Ltd., Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029
19. Hyun Seok Jang, Director, MIS LG Polymers India Pvt. Ltd., Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029.
20. Sunkey Jeong, Director, MIS LG Polymers India Pvt. Ltd., Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029
21. Pooma Chandra Mohan Rao Pitchuka, Director, M/s. LG Polymers India Pvt. Ltd., Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029
22. Chan Sik Chung, Director, MIS LG Polymers India Pvt. Ltd., Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029.

... Respondents

Writ Petition under Article 226 of the Constitution of India praying 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) i. Declaring G.O Rt. No.

449 dt 08.05.2020 and G.O. Rt. No. 803 dt 07.05.2020 as illegal and arbitrary to the extent that the State Government has ordered to pay compensation to the parties affected by the escape of Styrene Gas at about 3.30 AM on 07.05.2020 from the factory owned by LG Polymers India Pvt. Ltd in RR Venkatapuram Village, Pendurthy Mandal, Visakhapatnam (Gas Leakage or Incident) and consequently direct LG Polymers India Pvt Ltd. to pay the said compensation in the place and stead of the State Government. ii. Declaring the Schedule under Section 3(1) of The Public Liability Insurance Act, 1991 to be grossly inadequate and manifestly arbitrary and consequently revise the specified quantum of money payable as reliefs and/or direct the Union of India to revise the same as deemed fit and proper by this Hon'ble Court. iii. Directing the continuous implementation of Sections 5, 6 and 7 of The Public Liability Insurance Act, 1991 and submission of weekly press reports by the District Collector, Visakhapatnam. iv. Directing LG Polymers India Pvt. Ltd to state on affidavit all the compliances, standard operating procedures, permissions, insurance policies and other actions taken by it to ensure the safety of its factory in R.R.Venkatapuram Village, Pendurthy Mandal, Visakhapatnam, India (Unit or Factory). v, Directing the Respondents to permanently close down the Factory and/or shift the Factory from the densely populated area to a suitable location. vi. Directing the Union of India to entrust the Central Bureau of Investigation or any other special/independent investigation agency to investigate into the Gas Leakage and if necessary, initiate prosecution against the persons responsible for the said incident including officials of the Government of Andhra Pradesh and LG Polymers India Pvt Ltd. vii. Directing the investigation authority to submit periodical status reports on the progress of the investigation into the Gas Leakage to this Hon'ble Court. viii. Directing the concerned departments to take action against the Officials departmentally for their negligent acts which led to the Gas Leakage. ix. Directing the Government of Andhra Pradesh to identify all other factories and industries in Andhra Pradesh which are flouting the applicable laws and take appropriate action against the said

persons

These Writ Petitions coming on for hearing, upon perusing the Petitions and the affidavits filed in support thereof and the orders of the High Court dated 07.05.2020 in WP (PIL) No. 112 of 2020 and dated 22.05.2020 in WP (PIL) Nos. 112, 117 and 119 of 2020 made herein and upon hearing the arguments of Sri Sai Sanjay Suraneni, Advocate for the Petitioner, of Sri N. Harinath, Assistant Solicitor General for Respondent Nos. I & 2, of Sri S.Ravi, Senior Counsel for Sri D. Ravindra Naik, Advocate for Respondent Nos. 16 to 22 and of Sri S.Sriram, Advocate General, for the Respondent Nos. 4, 5, 6, 7, 11, 13 & 14:

**The Court made the following ORDER:**

"Heard learned counsel appearing in W.P.(PIL) No.112 of 2020, W.P.Nos.117 & 119 of 2020, learned Advocate General appearing for the State, learned Assistant Solicitor General, Sri Y.Srinivasa Murthy, learned counsel for the Central Pollution Control Board and the State Pollution Control Board and the Senior Counsel Sri S.Ravi, appearing on behalf of Mis LG Polymers Ltd.

On behalf of M/s LG Polymers, four interlocutory applications were filed, I.A.No.2 of 2020 is filed seeking leave of this Court to permit the 8<sup>th</sup> respondent-company to take out and sell the finished goods / products i.e. 1505,05 MT of Polystyrene, 2621.12 MT of Expandable Polystyrene and 361.193 MT of Engineered Plastics Compound, which were manufactured prior to 24.03.2020.

I.A.No.3 of 2020 is filed seeking direction to lift the seizure order and to direct the State to allow ingress and egress of all personnel including the Directors of the Company into the 8<sup>o</sup> respondent-company and to permit them to accompany the members of various committees during the inspection and enquiries.

Learned Advocate General, representing the State and the learned Assistant Solicitor General are directed to file their respective replies in respect to I.A.Nos.2 & 3 of 2020 by 02.06.2020 by serving copies to the other side and thereafter, the 8<sup>th</sup> respondent shall file its reply, if any, by serving copies on the other side.

During the course of hearing, it is brought to our notice that already counters are filed by the State Pollution Control Board as well as Central Pollution Control Board. However, as the copies of counters are not supplied to the other side, we direct the learned counsel to supply the copies of counters to the other side by 02.06.2020.

This Court on 22.05,2020 passed a detailed interim order, directing the parties to file their respective counters / reports on certain queries by this Court. After hearing the parties at length today, we feel that there are certain aspects which were not answered by the respondents in their respective counters / reports. Hence, we deem it appropriate to direct the parties to file a detailed reply to the following queries by 02.06.2020:

- 1) In the action taken report filed by the Advocate General, it is stated that 13,000 tones of Styrene monomer which was stored in 5 tanks at LG Polymers was shifted back to South Korea in two vessels and in the counter affidavit filed on behalf of the State Government, a table was drawn with regard to quantity of Styrene inventory. The 8<sup>th</sup> respondent in its counter affidavit has stated that 2166MT of Styrene Monomer was at the plant and 6860 MT of Styrene Monomer was at the third party storage tanks at the port. Hence, the specific query of this Court is, What is the quantity of Styrene Monomer transported to South Korea by 8<sup>th</sup> respondent- company and what is its actual market value?

- 2) Whether any permission is required to send back/ transport the Styrene Monomer to South Korea and if so, with whose permission it was transported to South Korea?
- 3) When the Company has started its expansion work, from which date prior environmental clearance is required to be obtained by the Company and what are the steps taken by the State Government as well as the Central Government, when the company is functioning without environmental clearance?
- 4) Whether the company is located in the residential zone or what are the norms to be followed while granting permission for operation of such industry, which is dealing with hazardous chemical and whether the Rules and Regulations are followed while granting permissions?
- 5) It is slated in the counter affidavit that except the factory premises, all other lands are notified as residential lands. In that case, whether it is permissible to run the Industry, which is dealing with hazardous chemical close to habitation?

It is urged by the Company before the Hon'ble Supreme Court that several committees are appointed by different entities. In this regard, we direct the State as well as Central Government to point out the appropriate committee / agency to look into all the aspects right from environment, compensation and all related aspects.

Learned counsel for the petitioner submits that the present case is a case of absolute liability and squarely covered by the Judgment of the Hon'ble Apex Court in M.C.Mehta and another Vs. Union of India and others [(1987) 1 Supreme

Court Cases 395], as such interim direction is sought directing the 8<sup>th</sup> respondent-company to deposit money as an interim relief to the victims. We direct M/s LG Polymers to file counter on this aspect and we will consider the same after taking into consideration of all the respective counters / reports and pass appropriate orders on the next date of hearing.

List all the matters on 04.06.2020 till such lime status quo to be maintained in all aspects."

Sd/- M.RAMESH BABU  
ASSISTANT REGISTRAR

//TRUE COPY//

For ASSISTANT REGISTRAR

To,

1. The Chief Secretary, State of Andhra Pradesh, Secretariat, Velagapudi, Amaravati [by RPAD].
2. The Director General of Police, Andhra Pradesh, Mangalagiri, Guntur District [by RPAD]
3. The Commissioner of Police, Visakhapatnam City [by RPAD]
4. The Secretary, Ministry of Industries, Union of India, New Delhi [by RPAD]
5. The Secretary, Ministry of Environment and Pollution, Union of India, New Delhi [by RPAD]
6. The District Collector, Visakhapatnam District [by RPAD]
7. The Superintendent, King George Hospital, Visakhapatnam [by RPAD]
8. M/s. LG Polymers Ltd., LG Polymers RD RRV Puram, Naidu Thota, Visakhapatnam, Andhra Pradesh 530029 [by RPAD]

9. The Principal Secretary, State of Andhra Pradesh, Department of Industries, Secretariat, Andhra Pradesh [by RPAD]
10. The Commissioner, Department of Industries, O/o First Floor, Government Regional Printing Press Buildings, Mutyalampadu St, Vijayawada, 520011 [by RPAD]
11. The Proprietor, LG Polymers Pvt. Ltd., RR Venkatapuram, Vishalcapatnam, Andhra Pradesh-530029 [by RPAD]
12. The Director, LG Polymers Pvt. Ltd., RR Venkatapuram, Vishalcapatnam, Andhra Pradesh 530029 [by RPAD]
13. The Under Secretary, Union of India, Ministry of Home Affairs, New Delhi [by RPAD]
14. The Secretary, Union of India, Ministry of Environment, Forest and Climatic Changes, New Delhi [by RPAD]
15. The Director, Central Bureau of Investigation, Plot No.5-B,6<sup>th</sup> Floor, CGO Complex, Lodhi Road, Jawaharlal Nehru Stadium Marg, Delhi 110003 [by RPAD]
16. The Secretary, State of Andhra Pradesh, Ministry of Environment, Forest and Climatic Changes, Velagapudi, Amaravathi [by RPAD]
17. The Secretary, State of Andhra Pradesh, Home Department, Velagapudi, Amaravathi [by RPAD]
18. The Secretary, State of Andhra Pradesh, General Administration Department [SC.I], Velagapudi, Amaravathi [by RPAD]
19. The Member Secretary, Central Pollution Control Board, Parivesh Bhawan, Maharshi Valmiki Marg, East Arjun Nagar, Vishwas Nagar, Extension, Shandara, Delhi 1100032 [by RPAD]
20. Member Secretary, A.P. Pollution Control Board, Kadiyala Vari St, Moghalrajpuram, Suryaraopeta, Vijayawada, Andhra Pradesh 520002 [by RPAD]

- 21.The Collector and District Magistrate, Krishnagar, Maharani Peta, Visakhapatnam, Andhra Pradesh 530002 [by RPAD]
- 22.Commissioner of Labour, Kovbetamudivari Street, Suryaraopeta, Vujayawada, Andhra Pradesh 520002 [by RPAD]
- 23.The Commissioner, Visakhapatnam Municipal Corporation, Chitralaya Rd, Suryabagh, Jagadamba Junction, Visakhapatnam, Andhra Pradesh 530020 [by RPAD]
- 24.Chief Inspector of Factories, Department of Fectories, Yadavula Bazar, Benz Circle, Vijayawada, Andhra Pradesh 520008 [by RPAD]
- 25.The State Crisis Group, Vijayawada, Krishna District [by RPAD]
- 26.The Central Crisis Group, New Delhi [by RPAD]
- 27.The Managing Director, M/s. LG Polymers India Pvt. Ltd., Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029 [by RPAD]
- 28.The Managing Director, M/s. LG Chem, LG Twin Towers, 128 Yeoui-daer Yeongdeungpo-gu Seoul Korea, Republic of South [by RPAD]
- 29.Mr. Byungkeun Song, Director, M/s. LG Polymers India Pvt. Ltd., Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029 [by RPAD]
- 30.Mr. Hyun Seok Jang, Director, MIS LG Polymers India Pvt. Ltd., Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029 [by RPAD]
- 31.Mr. Sunkey Jeong, Director, MIS LG Polymers India Pvt. Ltd., Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029 [by RPAD]
- 32.Mr. Poorna Chandra Mohan Rao Pitchuka, Director M/s. LG Polymers India Pvt. Ltd., Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029 [by RPAD]

- 33.Mr. Chan Sik Chung, Director, MIS LG Polymers India Pvt. Ltd., Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029 [by RPAD]
- 34.One CC to Sri Y.V.Ravi Prasad,Amicus Curie [by mail]
- 35.One CC to Sri Josyula Bhaskar Rao,S.C. for Central Govt. [OPUC]
- 36.One CC to Sri D.Narendra Naik,Advocate [OPUC]
- 37.One CC to Sri Ch. Markondaiah, Advocate [OPUC]
- 38.One CC to Sri Sri Sai Sanjay Suraneni, Advocate [OPUC]
- 39.One CC to Sri D.Narendra Naik, Avocate [OPUC]
- 40.One CC to Sri S.Ravi, Advocate [OPUC]
- 41.One CC to Sri S.Sriram, Advocate [OPUC]
- 42.Two CC to the Advocate General, High Court of A.P. [OUT]
- 43.Two CC to N.Harinath, Assistant General [OUT]
- 44.Two CC to G.P. for Industries and Commerce, High Court of A.P. [OPUC]
- 45.One spare copy.

MSR

HIGH COURT

HCJ

AND

LKJ

DATED : 29/05/2020

NOTE : LIST THESE CASES ON 04.06.2020

ORDER

WP[PIL] NO.112 OF 2020

WP[PIL] NO.117 OF 2020

AND

WP[PIL] NO.119 OF 2020

DIRECTION

**TYPED COPY**

1

**IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI**  
FRIDAY THE TWENTY NINTH DAY OF MAY,  
TWO THOUSAND AND TWENTY

.:PRESENT:  
**THE HON'BLE THE CHIEF JUSTICE JITENDRA KUMAR MAHESHWARI**  
**AND**  
**THE HON'BLE SMT JUSTICE LALITHA KANNEGANTI**

**WP (PIL) NO: 112 OF 2020**  
**WP (PIL) NO: 117 OF 2020**  
**AND**  
**WP (PIL) NO: 119 OF 2020**



**WP (PIL) NO. 112 OF 2020**

**Between:**

TAKEN UP, Poisonous gas leakage in Visakhapatnam

... **Petitioner**

**AND**

1. State Of Andhra Pradesh, Rep. by the chief secretary, Secretary, Velagapudi, Amaravati
2. Director General of Police, Andhra Pradesh, Mangalagiri, Guntur District
3. Commissioner of Police, Visakhapatnam City
4. Union of India, Rep by the Secretary, Ministry of Industries, New Delhi
5. Union of India, Rep by the Secretary, Ministry of Environment and Pollution, New Delhi
6. The District Collector, Visakhapatnam District
7. The Superintendent, King George Hospital, Visakhapatnam
8. M/s. LG Polymers Ltd., LG Polymers RD RRV Puram, Naidu Thota, Visakhapatnam, Andhra Pradesh 530029

... **Respondents**

Writ Petition under Article 226 of the Constitution of India praying to issue a Writ, order or direction, in the nature of mandamus or any other appropriate writ calling for the records relating to the incident of leakage of poisonous gas from LG Polymers factory at Visakhapatnam at about 2.30 a.m on the intervening night of 06.5.2020/07.05.2020, to direct the Respondents to take all necessary steps for saving the lives of the people in and around the said factory, to provide all necessary medical treatment to the persons who are admitted into various hospitals and to provide necessary facilities to the persons evacuated to safer places and also to issue necessary directions to avoid such incidents in future and to grant other relief/s as the Hon'ble Court may deem fit and proper in the circumstances.

**IA NO: 2 OF 2020**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant leave and permitting the respondent No.8 Company to take out and sell the finished goods / products i.e. 1505.05 MT of Polystyrene, 2621.12 MT of Expandable Polyesterene, and 361.193 MT of Engineered Plastics Compound which were manufactured prior to 24.03.2020 and are presently stored in godowns at the Plant.

**IA NO: 3 OF 2020**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to lift the seizure order and direct the State to allow ingress and egress of all personnel including the Directors of the Company into the premises of the Respondent No.8 company including to accompany the Members of various Committees during inspection/enquiries and pass such other order or orders as this Hon'ble Court may deem fit and necessary in the given facts and circumstances of the case.

The Writ Petitions coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and the order of the High Court order dated 07.05.2020 in WP (PIL) No. 112 of 2020 and dated 22.05.2020 in WP (PIL) Nos. 112, 117 and 119 of 2020 made herein and upon hearing the arguments of Sri Y.V. Ravi Prasad, Amicus Curiae, for the petitioner, Sri S.Sriram, Advocate General, for the Respondents Nos. 1, 2, 3, 6 and 7, of Sri Josyula Bhaskar Rao, S.C. for Central Govt., for Respondents No.4 and 5 and of Sri D.Narendra Naik, for Respondent No.8.;

**WP (PIL) NO: 117 OF 2020****Between:**

Rapolu Bhaskar, S/o Late Rapolu Ramulu, Occ: Advocate, R/o Flat No.501, Vaishnavi Nest Apartments, Indira Nagar, Beside IKON Hospital, Dilsukhnagar, Hyderabad- 500 036. Cell- 9848498029

... Petitioner

**AND**

1. The State of Andhra Pradesh, Rep. by its Principal Secretary, Department of Industries, Secretariat, Andhra Pradesh.
2. The Commissioner, Department of Industries, O/o First Floor, Government Regional Printing Press Buildings, Mutyalampadu St, Vijayawada, 520 011,
3. The Proprietor, LG Polymers Pvt. Ltd, RR Venkatapuram, Vishakapatnam, Andhra Pradesh-530 029.
4. The Director, LG Polymers Pvt. Ltd, RR Venkatapuram, Vishakapatnam, Andhra Pradesh-530 029

... Respondents

Writ Petition under Article 226 of the Constitution of India praying to issue a Writ, Order or a Direction more Particularly in the nature of a Writ of Mandamus declaring the action of the respondents in not providing financial assistance and medical facilities to the affected people at Vishakhapatnam in the State of Andhra Pradesh and to direct the concerned authorities to take the action against the respondents who were responsible to cause this gas incident and to direct respondents to provide the best medical facilities to the injured persons and also to direct to the LG Polymers company management to give the compensation of Rs. 2 crores to the deceased families and Rs. 50 Lakhs to every injured persons and Rs.50,000 to the deceased cattle as well as Rs.5,00,000 to the damaged standing crop of the farmers and also to direct the company authorities to take full responsibilities to provide the medical facilities for the consequences of health issues in future and also immediately seize the company at present and also to direct to shift the company far from the Vishakhapatnam and also to direct the authorities to provide the double bedroom houses to the deceased people families under Apadhbandhn Padakam and also ask the concerned authorities to submit the reports of regarding LG polymers gas leakage incident and safety measures by the respondents and concerned officers in the interest of justice.

**IA NO: 1 OF 2020**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents forthwith to provide financial assistance and medical facilities to the affected people at Vishakhapatnam in the State of Andhra Pradesh and also to direct the respondents to take the action against the respondents who were responsible to cause this gas incident and to direct respondents to provide the best medical facilities to the injured persons and also to direct to the LG Polymers company management to give the compensation of Rs. 2 crores to the deceased families and Rs. 50 Lakhs to every injured persons and Rs.50,000 to the deceased cattle as well as Rs.5,00,000 to the damaged standing crop of the farmers and also to direct the company authorities to take full responsibilities to provide the medical facilities for the consequences of health issues in future and also immediately seize the company at present and also to direct to shift the company far from the Vishakhapatnam and also to direct the authorities to provide the double bedroom houses to the deceased people families under Apadhbandhu Padakam and also ask the concerned authorities to submit the reports of regarding LG polymers gas leakage incident and safety measures by the respondents and concerned officers for the pending disposal of the above writ petition (PIL) No. 117 of 2020, on the file of the High Court.

The Writ Petitions coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and the order of the High Court order dated 07.05.2020 in WP (PIL) No. 112 of 2020 and dated 22.05.2020 in WP (PIL) Nos. 112, 117 and 119 of 2020 made herein and upon hearing the arguments of Sri Sri Ch. Markondaiah, Advocate for the Petitioner, of Sri S.Sriram, Advocate General, for the Respondent No.1 and of G.P. for Industries & Commerce, for Respondent No. 2;

**WP (PIL) NO: 119 OF 2020****Between:**

Ramakumar Sabbavarapu, S/o. S. Eswar Rao, Aged 38 years, R/o Door No. 2-1, Pinagadi Village, Pendurthi Mandal, Visakhapatnam 531173

... Petitioner

**AND**

1. The Union of India, Rep. by its Under Secretary, Ministry of Home Affairs, New Delhi.
2. The Union of India, Rep. by its Secretary, Ministry of Environment, Forest and Climatic Changes, New Delhi.
3. The Central Bureau of Investigation, Rep. by its Director, Plot No. 5-B, 6th Floor, CGO Complex, Lodhi Road, Jawaharlal Nehru Stadium Marg, Delhi 110003.
4. The State of Andhra Pradesh, Rep. by its Principal Secretary, Department of Industries, Velagapudi, Amaravathi.
5. The State of Andhra Pradesh, Rep. by its Secretary, Ministry of Environment, Forest and Climatic Changes, Velagapudi, Amaravathi.
6. The State of Andhra Pradesh, Rep. by its Secretary, Home Department, Velagapudi, Amaravathi.
7. The State of Andhra Pradesh, Rep. by its Secretary, General Administration Department (S.C.D), Velagapudi, Amaravathi.
8. Central Pollution Control Board, Rep. by its Member Secretary, Parivesh Bhawan, Maharshi Valmiki Marg, East Arjun Nagar, Vishwas Nagar Extension, Shandara, Delhi, 110032.
9. A.P. Pollution Control Board, Rep. by its Member Secretary, Kadiyala Vari St, Moghalrajpuram, Suryaraopeta, Vijayawada, Andhra Pradesh 520002.
10. The Collector and District Magistrate, Address. Krishnagar, Maharani Peta, Visakhapatnam, Andhra Pradesh 530002.
11. Commissioner of Labour, Kovelamudivari Street, Suryaraopeta, Vijayawada, Andhra Pradesh 520002.
12. Visakhapatnam Municipal Corporation, Rep. by its Commissioner, Chitralaya Rd, Suryabagh, Jagadamba Junction, Visakhapatnam, Andhra Pradesh 530020.
13. Chief Inspector of Factories, Department of Factories, Yadavula Bazar, Benz Circle, Vijayawada, Andhra Pradesh 520008.
14. State Crisis Group, Vijayawada, Krishna District.
15. Central Crisis Group, New Delhi
16. M/S LG Polymers India Pvt. Ltd., Rep. by its Managing Director, Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029.
17. LG Chem, Rep. by its Managing Director, LG Twin Towers, 128 Yeoui-daer Yeongdeungpo-gu Seoul Korea, Republic of (South)
18. Byungkeun Song, Director, M/S LG Polymers India Pvt. Ltd, Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029.
19. Hyun Seok Jang, Director, MIS LG Polymers India Pvt. Ltd, Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029.
20. Sunkey Jeong, Director, MIS LG Polymers India Pvt. Ltd, Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029.
21. Poorna Chandra Mohan Rao Pitchuka, Director, M/S LG Polymers India Pvt. Ltd, Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029.
22. Chan Sik Chung, Director, MIS LG Polymers India Pvt. Ltd, Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029.

... Respondents

Writ Petition under Article 226 of the Constitution of India praying 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) i. Declaring G.O. Rt. No. 449 dt 08.05.2020 and G.O. Rt. No. 803 dt 07.05.2020 as illegal and arbitrary to the extent that the State Government has ordered to pay compensation to the parties affected by the escape of Styrene Gas at about 3.30 AM on 07.05.2020 from the factory owned by LG Polymers India Pvt.Ltd in R.R.Venkatapuram Village, Pendurthy Mandal, Visakhapatnam(Gas Leakage or Incident) and consequently direct LG Polymers India Pvt Ltd. to pay the said compensation in the place and stead of the State Government. ii. Declaring the Schedule under Section 3(1) of The Public Liability Insurance Act, 1991 to be grossly inadequate and manifestly arbitrary and consequently revise the specified quantum of money payable as reliefs and/or direct the Union of India to revise the same as deemed fit and proper by this Hon'ble Court. iii. Directing the continuous implementation of Sections 5, 6 and 7 of The Public Liability Insurance Act, 1991 and submission of weekly press reports by the District Collector, Visakhapatnam. iv. Directing LG Polymers India Pvt Ltd to state on affidavit all the compliances, standard operating procedures, permissions, insurance policies and other actions taken by it to ensure the safety of its factory in R.R.Venkatapuram Village, Pendurthy Mandal, Visakhapatnam, India (Unit or Factory). v. Directing the

Respondents to permanently close down the Factory and/or shift the Factory from the densely populated area to a suitable location. vi. Directing the Union of India to entrust the Central Bureau of Investigation or any other special/independent investigation agency to investigate into the Gas Leakage and if necessary, initiate prosecution against the persons responsible for the said incident including officials of the Government of Andhra Pradesh and LG Polymers India Pvt Ltd. vii. Directing the investigation authority to submit periodical status reports on the progress of the investigation into the Gas Leakage to this Hon'ble Court. viii. Directing the concerned departments to take action against the Officials departmentally for their negligent acts which led to the Gas Leakage. ix. Directing the Government of Andhra Pradesh to identify all other factories and industries in Andhra Pradesh which are flouting the applicable laws and take appropriate action against the said persons

These Writ Petitions coming on for hearing, upon perusing the Petitions and the affidavits filed in support thereof and the orders of the High Court dated 07.05.2020 in WP (PIL) No. 112 of 2020 and dated 22.05.2020 in WP (PIL) Nos. 112, 117 and 119 of 2020 made herein and upon hearing the arguments of Sri Sai Sanjay Suraneni, Advocate for the Petitioner, of Sri N. Harinath, Assistant Solicitor General for Respondent Nos.1 &2, of Sri S.Ravi, Senior Counsel for Sri D. Ravindra Naik, Advocate for Respondent Nos.16 to 22 and of Sri S.Striram, Advocate General, for the Respondent Nos. 4, 5, 6, 7, 11, 13 & 14:

**The Court made the following ORDER:**

**"Heard learned counsel appearing in W.P.(PIL) No.112 of 2020, W.P.Nos.117 & 119 of 2020, learned Advocate General appearing for the State, learned Assistant Solicitor General, Sri Y.Srinivasa Murthy, learned counsel for the Central Pollution Control Board and the State Pollution Control Board and the Senior Counsel Sri S.Ravi, appearing on behalf of M/s LG Polymers Ltd.**

**On behalf of M/s LG Polymers, four interlocutory applications were filed. I.A.No.2 of 2020 is filed seeking leave of this Court to permit the 8<sup>th</sup> respondent-company to take out and sell the finished goods / products i.e. 1505.05 MT of Polystyrene, 2621.12 MT of Expandable Polystyrene and 361.193 MT of Engineered Plastics Compound, which were manufactured prior to 24.03.2020.**

**I.A.No.3 of 2020 is filed seeking direction to lift the seizure order and to direct the State to allow ingress and egress of all personnel including the Directors of the Company into the 8<sup>th</sup> respondent-company and to permit them to accompany the members of various committees during the inspection and enquiries.**

**Learned Advocate General, representing the State and the learned Assistant Solicitor General are directed to file their respective replies in respect to I.A.Nos.2 & 3 of 2020 by 02.06.2020 by serving copies to the other side and thereafter, the 8<sup>th</sup> respondent shall file its reply, if any, by serving copies on the other side.**

**During the course of hearing, it is brought to our notice that already counters are filed by the State Pollution Control Board as well as Central Pollution Control Board. However, as the copies of counters are not supplied to the other side, we direct the learned counsel to supply the copies of counters to the other side by 02.06.2020.**

**This Court on 22.05.2020 passed a detailed interim order, directing the parties to file their respective counters / reports on certain queries by this Court. After hearing the parties at length today, we feel that there are certain aspects which were not answered by**

the respondents in their respective counters / reports. Hence, we deem it appropriate to direct the parties to file a detailed reply to the following queries by 02.06.2020:

- 1) In the action taken report filed by the Advocate General, it is stated that 13,000 tones of Styrene monomer which was stored in 5 tanks at LG Polymers was shifted back to South Korea in two vessels and in the counter affidavit filed on behalf of the State Government, a table was drawn with regard to quantity of Styrene inventory. The 8<sup>th</sup> respondent in its counter affidavit has stated that 2166MT of Styrene Monomer was at the plant and 6860 MT of Styrene Monomer was at the third party storage tanks at the port. Hence, the specific query of this Court is, What is the quantity of Styrene Monomer transported to South Korea by 8<sup>th</sup> respondent-company and what is its actual market value?
- 2) Whether any permission is required to send back / transport the Styrene Monomer to South Korea and if so, with whose permission it was transported to South Korea?
- 3) When the Company has started its expansion work, from which date prior environmental clearance is required to be obtained by the Company and what are the steps taken by the State Government as well as the Central Government, when the company is functioning without environmental clearance?
- 4) Whether the company is located in the residential zone or what are the norms to be followed while granting permission for operation of such industry, which is dealing with hazardous chemical and whether the Rules and Regulations are followed while granting permissions?
- 5) It is stated in the counter affidavit that except the factory premises, all other lands are notified as residential lands. In that case, whether it is permissible to run the Industry, which is dealing with hazardous chemical close to habitation?

It is urged by the Company before the Hon'ble Supreme Court that several committees are appointed by different entities. In this regard, we direct the State as well as Central Government to point out the appropriate committee / agency to look into all the aspects right from environment, compensation and all related aspects.

Learned counsel for the petitioner submits that the present case is a case of absolute liability and squarely covered by the Judgment of the Hon'ble Apex Court in M.C.Mehta and another Vs. Union of India and others [(1987) 1 Supreme Court Cases 395], as such interim direction is sought directing the 8<sup>th</sup> respondent-company to deposit money as an interim relief to the victims. We direct M/s LG Polymers to file counter on this aspect and we will consider the same after taking into consideration of all the respective counters / reports and pass appropriate orders on the next date of hearing.

List all the matters on 04.06.2020 till such time *status quo* to be maintained in all aspects."

//TRUE COPY//

Sd/- M. RAMESH BABU  
ASSISTANT REGISTRAR

For ASSISTANT REGISTRAR

- To,
1. The Chief Secretary, State Of Andhra Pradesh, Secretariat, Velagapudi, Amaravati (by RPAD)
  2. The Director General of Police, Andhra Pradesh, Mangalagiri, Guntur District (by RPAD)
  3. The Commissioner of Police, Visakhapatnam City (by RPAD)
  4. The Secretary, Ministry of Industries, Union of India, New Delhi (by RPAD)
  5. The Secretary, Ministry of Environment and Pollution, Union of India, New Delhi (by RPAD)
  6. The District Collector, Visakhapatnam District (by RPAD)
  7. The Superintendent, King George Hospital, Visakhapatnam (by RPAD)
  8. M/s. LG Polymers Ltd., LG Polymers RD RRV Puram, Naidu Thota, Visakhapatnam, Andhra Pradesh 530029 (by RPAD)
  9. The Principal Secretary, State of Andhra Pradesh, Department of Industries, Secretariat, Andhra Pradesh. (by RPAD)
  10. The Commissioner, Department of Industries, 0/o First Floor, Government Regional Printing Press Buildings, Mutyalampadu St, Vijayawada, 520 011, (by RPAD)
  11. The Proprietor, LG Polymers Pvt. Ltd, RR Venkatapuram, Vishakapatnam, Andhra Pradesh-530 029. (by RPAD)
  12. The Director, LG Polymers Pvt. Ltd, RR Venkatapuram, Vishalcapatnam, Andhra Pradesh-530 029 (by RPAD)
  13. The Under Secretary, Union of India, Ministry of Home Affairs, New Delhi. (by RPAD)
  14. The Secretary, Union of India, Ministry of Environment, Forest and Climatic Changes, New Delhi. (by RPAD)
  15. The Director, Central Bureau of Investigation, Plot No. 5-B, 6th Floor, CGO Complex, Lodhi Road, Jawaharlal Nehru Stadium Marg, Delhi 110003. (by RPAD)
  16. The Secretary, State of Andhra Pradesh, Ministry of Environment, Forest and Climatic Changes, Velagapudi, Amaravathi. (by RPAD)
  17. The Secretary, State of Andhra Pradesh, Home Department, Velagapudi, Amaravathi. (by RPAD)
  18. The Secretary, State of Andhra Pradesh, General Administration Department (SC.I), Velagapudi, Amaravathi. (by RPAD)
  19. The Member Secretary, Central Pollution Control Board, Parivesh Bhawan, Maharshi Valmiki Marg, East Arjun Nagar, Vishwas Nagar Extension, Shandara, Delhi, 110032. (by RPAD)
  20. Member Secretary, A.P. Pollution Control Board, Kadiyala Vari St, Moghalrajpuram, Suryaraopeta, Vijayawada, Andhra Pradesh 520002. (by RPAD)
  21. The Collector and District Magistrate, Krishnagar, Maharani Peta, Visakhapatnam, Andhra Pradesh 530002. (by RPAD)
  22. Commissioner of Labour, Kovelamudivari Street, Suryaraopeta, Vijayawada, Andhra Pradesh 520002. (by RPAD)
  23. The Commissioner, Visakhapatnam Municipal Corporation, Chitralaya Rd, Suryabagh, Jagadamba Junction, Visakhapatnam, Andhra Pradesh 530020. (by RPAD)
  24. Chief Inspector of Factories, Department of Factories, Yadavula Bazar, Benz Circle, Vijayawada, Andhra Pradesh 520008. (by RPAD)
  25. The State Crisis Group, Vijayawada, Krishna District. (by RPAD)
  26. The Central Crisis Group, New Delhi (by RPAD)
  27. The Managing Director, M/S LG Polymers India Pvt. Ltd., Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029. (by RPAD)
  28. The Managing Director, LG Chem, LG Twin Towers, 128 Yeoui-daer Yeongdeungpo-gu Seoul Korea, Republic of (South) (by RPAD)
  29. Mr. Byungkeun Song, Director, M/S LG Polymers India Pvt. Ltd, Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029. (by RPAD)
  30. Mr. Hyun Seok Jang, Director, MIS LG Polymers India Pvt. Ltd, Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029. (by RPAD)
  31. Mr. Sunkey Jeong, Director, MIS LG Polymers India Pvt. Ltd, Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029. (by RPAD)
  32. Mr. Poorna Chandra Mohan Rao Pitchuka, Director, M/S LG Polymers India Pvt. Ltd, Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029. (by RPAD)
  33. Mr. Chan Sik Chung, Director, MIS LG Polymers India Pvt. Ltd, Quality Innovation and Solutions, RR Venkatapuram, Visakhapatnam 530029. (by RPAD)
  34. One CC to Sri Y.V. Ravi Prasad, Amicus Curiae (by Mail)
  35. One CC to Sri Josyula Bhaskar Rao, S.C. for Central Govt., (OPUC)
  36. One CC to Sri D.Narendra Naik, Advocate (OPUC)
  37. One CC to Sri Ch. Markondaiah, Advocate (OPUC)
  38. One CC to Sri Sri Sai Sanjay Suraneni, Advocate (OPUC)
  39. One CC to Sri D.Narendra Naik, Advocate (OPUC)
  40. One CC to Sri S.Ravi, Advocate (OPUC)
  41. One CC to Sri S.Sriram, Advocate (OPUC)
  42. Two CC to the Advocate General, High Court of A.P. [OUT]
  43. Two CC to N. Harinath, Assistant Solicitor General (OUT)
  44. Two CC to G.P. for Industries & Commerce, High Court of A.P. [OPUC]
  45. One spare copy

**HIGH COURT**

**HCJ  
&  
LKJ**

**DATED: 29/05/2020**

**NOTE : LIST THESE CASES ON 04.06.2020.**

**ORDER**

**WP(PIL).NO.112 OF 2020  
WP(PIL).NO.117 OF 2020  
AND  
WP(PIL).NO.119 OF 2020**

**DIRECTION**



**TRUE COPY**

**ANNEXURE - J**

Item Nos. 04 to 07

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

(By Video Conferencing)

Original Application No. 73/2020

(With Report dated 28.05.2020)

In re: Gas Leak at LG Polymers Chemical Plant in RR  
Venkatapuram Village, Visakhapatnam in Andhra Pradesh

WITH

Review Application No. 19/2020

LG Polymers India

Applicant(s)

**AND**

Original Application No. 76/2020

(Earlier Original Application No. 68/2020 (SZ))

EAS Sarma

Applicant(s)

Versus

Union of India &amp; Ors.

Respondent(s)

**AND**

Original Application No. 80/2020

(Earlier Original Application No. 73/2020 (SZ))

Centre for Wildlife and Environmental  
Litigation Foundation

Applicant(s)

Versus

Union of India &amp; Ors.

Respondent(s)

Date of hearing: 01.06.2020

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant  
In O.A. 76/2020:

Mr. Saurabh Sharma, Adv

For Respondent(s):

Mr. Sidharth Luthra, Sr. Adv. with Mr. Anuj Berry, Adv. for LG Polymers India  
Mr. Nikhil Nayyar, Sr. Adv. with Mr. TVS Raghavendra Sreyas, Adv. for Andhra Pradesh PCB  
Mr. Raj Kumar, Adv. for CPCB  
Mr. Satyalipsu Ray, Adv. for MoEF

**ORDER**

Original Application No. 73/2020  
 (With Report dated 28.05.2020)  
 In re: Gas Leak at LG Polymers Chemical Plant in RR  
 Venkatapuram Village, Visakhapatnam in Andhra Pradesh  
 WITH  
 Review Application No. 19/2020  
 LG Polymers India Applicant(s)

**Outline of the order****I. Background**

NGT order dated 8.5.2020  
Supreme Court order dated 19.5.2020 on Company's Appeal  
against NGT order of 8.5.2020

**II. Response of parties to NGT's order of 8.5.2020, Committee's Report, and further petitions filed before NGT**

Response of the MoEF&CC  
Response of the Andhra Pradesh PCB  
Response of the Company  
Committee's Report  
Further petitions filed before NGT

**III. Issues for Consideration**

- A. Contentions of the Company in light of observations of Hon'ble Supreme Court in order dated 19.5.2020, and otherwise
- B. Decision on merits in light of material on record
- C. Failure of Authorities and need for remedial measures
- D. Further directions

**IV. Discussion and Decision on the Issues****I. Background**

NGT order dated 8.5.2020

1. Vide Order dated 08.05.2020, this Tribunal initiated *suo-motu* proceedings in this matter on the basis of media reports to the effect that leakage of hazardous gas Styrene took place at 03:45 AM on 07.05.2020, from a chemical factory owned by the South Korean company LG Polymers India Pvt. Limited ("the Company"),

R.R. Venkatpuram village, Pendurthy Mandal, Vishakhapatnam resulting in death of 11 persons (now 12) and hospitalization of more than 100 people, of whom at least 25 were then reported to be serious. These fatalities and injuries were reportedly likely to increase. More than 1000 persons were reported sick. There was also damage to environment and habitat.

2. While noting reported failure of the Company to follow the mandate of the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 (“the 1989 Rules”) and failure of the statutory authorities and regulating such activities as per mandate of law. The Tribunal issued notice to Andhra Pradesh State PCB, District Magistrate, Vishakhapatnam, Central Pollution Control Board (CPCB), Ministry of Environment, Forests & Climate Change (MoEF&CC) and LG Polymers India Pvt. Limited (The Company). The Tribunal also constituted a six-member Committee headed by Justice B. Seshasayana Reddy, former Judge, A.P. High Court to visit the site and give a report on the following:
  - a. The sequence of events;
  - b. Causes of failure and persons and authorities responsible therefor;
  - c. Extent of damage to life, human and non-human; public health; and environment – including, water, soil, air;
  - d. Steps to be taken for compensation of victims and restitution of the damaged property and environment, and the cost involved;
  - e. Remedial measures to prevent recurrence;
  - f. Any other incidental or allied issues found relevant.

3. The Tribunal, having regard to the *prima-facie* material as to loss of lives, public health and environment and liability of the Company engaged in inherently hazardous activity, directed the Company to forthwith deposit an initial amount of Rs. 50 Crore with the District Magistrate, Vishakhapatnam, which would abide by further orders of this Tribunal. The amount was fixed having regard to the financial worth of the company and the apparent extent of the damage caused.

Supreme Court order dated 19.5.2020 on Company's Appeal against NGT order of 8.5.2020

4. The Company filed *Civil Appeal Diary No(s) 11327/2020* on 14.05.2020 before the Hon'ble Supreme Court which came up for hearing on 19.05.2020. The Hon'ble Supreme Court gave liberty to the Company to raise appropriate contentions before this Tribunal to be dealt with by this Tribunal as early as possible. It was observed, in relevant part:

*"Mr. Mukul Rohatgi, learned senior Advocate appearing in support of the appeal submitted that soon after the fateful incident, the High Court took cognizance in Suo Motu W.P.(PIL) No.112/2020 and directed the State Government to constitute a Committee of appropriate Officers not below the rank of Principal Secretaries.*

... ..

*Mr. Rohatgi further submitted that apart from this Committee, appropriate proceedings have been taken by concerned District Magistrates as well as by the Central Government and NHRC. **In his submission given the circumstances that the matter is engaging the attention of a Committee appointed pursuant to suo motu cognizance taken by the High Court, there was no occasion for the NGT to appoint a further Committee.***

***He stated that in compliance of the directions issued by the NGT, the appellant has deposited the amount of Rs.50 crores and at this stage the appellant is not seeking any relief with regard to said sum but the legal issues raised by the appellant need consideration. Reliance was also placed on some of the orders passed by this Court where the question whether NGT could take suo motu cognizance***

*of any matter was squarely in issue. It was, therefore, submitted that the direction taking suo motu cognizance by the Tribunal be stayed.”*

**(emphasis supplied)**

**II. Response of parties to NGT’s order of 8.5.2020, Committee’s Report, and further petitions filed before NGT**

Response of Parties

5. **Response of the MoEF&CC:** The MoEF&CC in its reply dated 14.05.2020 has stated that the gas in question is hazardous chemical under the 1989 Rules and the safety measures are to be adopted by the occupier of the company by preparing onsite and off-site emergency plans and taking other steps. As per Chemical Accidents (Emergency Planning, Preparedness and Response) Rules, 1996 (The 1996 Rules), Crisis Alert Systems have been established at the Central, State, District and Local levels. Among other authorities, the State Chief Inspector of Factories (CIFs) is to deal with the safety issues under the Factories Act, 1948. Petroleum and Explosives Safety Organization (PESO) is the nodal agency to approve the site of the industrial installation. MoEF&CC sought report from the State Authorities. ‘Report on the Styrene gas leakage’ annexed to the reply affidavit mentions about the incident. It is stated that 12 deaths have been reported and 4000 persons are affected. **The unit falls under the EIA Notification, 2006. It falls under category-A projects and the company has applied under ‘violation category’ for EC in 2018 to the SEIAA (State Environment Impact Assessment Authority). The MoEF&CC is yet to receive the transfer proposal from SEIAA.** On 08.05.2020, meeting of Central Crisis Group was held and suggestions were sought for dealing with the matter. Annexure-I is

the report of the CPCB dated 07.05.2020 recommending follow up action in the matter by the State PCB. Andhra Pradesh PCB is to carryout assessment of soil and groundwater. Annexure-2 is minutes of the Central Crisis Group under the Chairmanship of Secretary, MoEF&CC on 08.05.2020.

6. **Response of the Andhra Pradesh PCB:** The State PCB has stated that it issued statutory Consent for Establishment (CFE), Consent for Operation (CFO) and authorization under the Hazardous Management Rules, 1986 to the Company. In 2012, the Company increased its production capacity. Renewal of CFO and hazardous waste authorization was valid up to 31.12.2021 stands granted. SEIAA examined applicability of the EIA Notification for new product in the year 2017 and sought clarification from the MoEF&CC. **The Company moved the MoEF&CC for EC as per Notification dated 14.03.2017 dealing with the case of violation.** Management failed in understanding and managing the impact of changes due to lockdown. Directorate of Factories conducted investigation and gave its report dated 17.05.2020 recording the failures as follows:

***“V.1.A The management has failed in understanding and managing the impacts of changes due to lockdown in storage of Styrene Monomer.***

***V.1.B When the top layer of SM in the tank is more vulnerable of polymerization, the samples were kept on taking from bottom of the tank only. Even after finding the sudden rise in polymer content in SM at the bottom, no attempts were made to understand the condition at the top.***

***V.1.C There was no measurement of vapour temperature of the tank.***

***V.1.D No monitoring mechanism was provided to ensure the minimum dissolved oxygen in SM for ensuring***

***the functioning of TBC which is very vital requirement for safety. No attempts were made for putting the tank in circulation with other tanks or creation of movement with nitrogen + Air mixture.***

***V.1.E There is no production at the time of accident therefore, no emissions from process or utilities.”***  
**(emphasis supplied)**

**The Board withdrew the consent to the industry and issued stop production order on 07.05.2020. The company also gave letter dated 11.05.2020 that the plant will be kept under shutdown till necessary approvals and there is no production at the company.** The Board monitored the styrene concentration in the ambient air and also collected surface water and groundwater and soil samples. The State of Andhra Pradesh constituted High Powered Committee. The team of Experts from CSIR-NEERI and CBRN Expert Team of 5<sup>th</sup> Battalion NDRF was constituted by the National Crisis Management Committee, New Delhi. Central Government also deployed two-member expert team to focus on-site technical issues.

7. **Response of the Company:** The company has chosen not to file any response on merits whatsoever inspite of opportunity nor any affidavit showing any difficulty in doing so, nor responded to the stand of the MoEF&CC and the State PCB with regard to its apparent failures in complying with statutory and legal obligation and not even produced onsite and off site plans statutorily required to be prepared which is very unfortunate in the face of loss of lives, public health and environment. Faced with this, the only response of learned counsel is that it has no access to relevant record, which stand on the face of it is against facts. However, it has been stated and also noted in the order of the

Supreme Court that the amount of Rs. 50 crore in terms of order of this Tribunal has been deposited. It has filed review application No. 19/2020 seeking recall of order dated 08.05.2020 insofar as constitution of the Committee is concerned and exercise of jurisdiction by this Tribunal.

The contentions raised on behalf of the Company in substance are:

- a) NGT could not have taken *suo motu* cognizance of the matter. Reliance has been placed on the orders of the Hon'ble Supreme Court dated 07.01.2019 in *Civil Appeal Nos. 12122-12123 of 2018, Municipal Corporation Greater Mumbai vs. Ankita Sinha & Anr.* and 05.08.2019 in *Civil Appeal No. 5902 of 2019, Central Electricity Supply Utility of Odisha v. Government of India, Civil Appeal No. 5902 of 2019.* In these orders, contention has been raised that NGT does not have jurisdiction to raise *suo-motu* proceedings. Supreme Court has issued notice, and matters are pending.
- b) Cognizance of the matter has already been taken by the Andhra Pradesh High Court in *W.P. (PIL) No. 112/2020* and the State Government has constituted a Committee to look into the reasons for leakage and other issues as mentioned in the order of the Hon'ble Supreme Court dated 19.05.2020 quoted above. Apart from the High Court, Committees have also been constituted by the District Magistrate, Central Government and the National Human Right Committee (NHRC). The Tribunal should not proceed with the matter.

These contentions are dealt with in the subsequent section.

### Committee's Report

8. *Report of the Joint Committee constituted by this Tribunal ("the Report"), dated 28.5.2020:* The report dated 28.5.2020 has been filed by the Committee, apart from interim report dated 17.5.2020 mentioning sequence of events, causes of failure, authorities responsible for failure, remedial measures to prevent recurrence and incidental issues. In short, the Company has been found liable apart from other authorities. We will refer to the Report in later part of this order. However, further study has been suggested to quantify damage and restorations measures.

### Further Petitions filed before NGT

9. Two petitions being OA 76/ 2020 and OA 80/2020, have been filed on the same issue. The said petitions were filed before the Southern Bench of the Tribunal, and have been referred to the Principal Bench on account of pendency of the *suo-motu* proceedings. Order in these petitions follows subsequently.

### **III. Issues for Consideration**

10. In view of above resume, the following issues need to be dealt with:
- A. Contentions of the Company in light of observations of Hon'ble Supreme Court in order dated 19.5.2020, and otherwise
  - B. Decision on merits in light of material on record.
  - C. Failure of monitoring mechanism and remedial measures
  - D. Further directions

### **IV. Discussion and Decision on the Issues**

11. We proceed to deal with the above issues

A. Contentions of the Company in light of observations of Hon'ble Supreme Court in order dated 19.5.2020, and otherwise

12. We have heard Shri Sidharth Luthra, Senior Advocate appearing for the Company. He has pressed two main objections noted in the order of the Hon'ble Supreme Court and the Review Application which have already been noted. We do not find any merit in either objection.

**a) Suo Motu Jurisdiction**

13. At the outset, two petitions have been filed before this Tribunal and the objection is rendered moot. Even otherwise, the objection is against the policy and scheme of law and binding judgements of the Hon'ble Supreme Court.

14. **NGT has the purpose and power to provide relief and compensation to victims of environment damage, restitution of property, and restoration of environment. To effectuate this purpose, NGT has wide powers to devise its own procedure. In appropriate circumstances, this power includes the power to institute suo-motu proceedings and not keep its hands tied in the face of drastic environmental damage and serious violation of right to life, public health and damage to property. This is especially so when the victims are marginalized and/or by reason of poverty or disability or socially or economically disadvantaged position cannot approach the Tribunal. The power is coupled with duty to exercise such powers for achieving the enumerated objects. Failure to exercise suo-motu jurisdiction in such circumstances would render these victims without remedy, causing irretrievable injustice and**

**breakdown of Rule of Law. If NGT were powerless to institute suo-motu proceedings where so warranted, as in the present case, it would be robbed of all its efficacy, because then the situation would be that if environmental damage causes loss of life, public health and property, the court can grant relief only if the victims found the means to approach it first. Such limitation, to a large extent, would emasculate NGT's *raison-d'etre*, and render it nugatory and futile.**

15. We may refer to the scheme of the NGT Act, 2010 and the observations of the Hon'ble Supreme Court on the subject. The long title of the Act suggests that the NGT has been established *inter-alia* for enforcement of legal rights relating to environment and giving relief and compensation for damage to the persons and property in pursuance of the decisions taken at the UN Conference on Human Environment held at Stockholm in June, 1972 and UN Conference on Environment and Development held at *Rio de Janeiro* in June, 1992 and decisions of the Hon'ble Supreme Court. The statement of objects and reasons states:

“5. Taking into account the large number of environmental cases pending in higher courts and the involvement of multidisciplinary issues in such cases, **the Supreme Court requested the Law Commission of India to consider the need for constitution of specialized environmental courts. Pursuant to the same, the Law Commission has recommended the setting up of environmental courts having both original and appellate jurisdiction relating to environmental laws.**

6. *In view of the foregoing paragraphs, a need has been felt to establish a specialized tribunal to handle the multidisciplinary issues involved in environmental cases. Accordingly, it has been decided to enact a law to provide for the establishment of the National Green Tribunal for effective and expeditious disposal of civil cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment.*

7. Accordingly, it has been decided to introduce the National Green Tribunal Bill, 2009 which inter alia provides-

- (a) for establishment of a National Green Tribunal which shall consist of a Chairperson and such number of Judicial and Expert Members as the Central Government may notify;
- (b) that a person who is or has been a Judge of the Supreme Court or Chief Justice of a High Court shall be eligible for appointment as the Chairperson or Judicial Member of the Tribunal;
- (c) that a person who is or has been a Judge of a High Court shall also be eligible for appointment as a Judicial Member;
- (d) that a person who is either an expert in physical sciences or life sciences or engineering, or who has administrative experience in dealing with environmental matters shall be qualified for appointment as an Expert Member;
- (e) **that the Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactment specified in the Schedule I to the Bill and to grant relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in the Schedule I to the Bill and to hear appeals under certain enactments specified in the Schedule III to the Bill;**
- (f) for repeal of the 'National Environmental Tribunal Act, 1995' and the 'National Environment Appellate Authority Act, 1997.'

**(emphasis supplied)**

16. Section 15 of the NGT Act, 2010 enables the Tribunal to provide relief and compensation to the victims of pollution and other environmental damages, restitution of property and environment, and is as follows, in relevant part:

**“15. Relief, compensation and restitution. –**

**1. The Tribunal may, by an order, provide-**

- a. relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in the Schedule I (including accident occurring while handling any hazardous substance);**
- b. for restitution of property damaged;**
- c. for restitution of the environment for such area or areas, as the Tribunal may think fit.”**

17. The Tribunal has power to regulate its own procedure (Section 19). In case of an accident, no-fault liability principle applies (Section 17). Rule 24 of the NGT (Practice and Procedure) Rules, 2011 confers discretion to pass such order as may be necessary to secure ends of justice. This has been considered *inter-alia* by the Hon'ble Supreme Court in **State of Meghalaya v. All Dimasa Students Union** (2019) 8 SCC 177. In relevant part, some pertinent observations are:

“157. Rule 24 empowers the Tribunal to make such orders or give such directions as may be necessary or expedient to give effect to its order or to secure the ends of justice. Rule 24 gives **wide powers** to the Tribunal to **secure the ends of justice**. Rule 24 vests special power to Tribunal to pass orders and issue directions to secure ends of justice. **Use of words ‘may’, ‘such orders’, ‘gives such directions’, ‘as may be necessary or expedient’, ‘to give effect to its orders’, ‘order to prevent abuse of process’, are words which enable the Tribunal to pass orders and the above words confer wide discretion.**

159. **The enabling power given to the Tribunal under Rule 24 is for purpose and object to decide the subjects which are to be examined, decided and an appropriate relief is to be granted by the Tribunal. Further, subjects contain wide range of subjects which require technical and scientific inputs. The Tribunal can pass such orders as it may think fit necessary or expedient to secure ends of justice.**

160. **The object for which said power is given is not far to seek. To fulfil objective of the NGT Act, 2010. NGT has to exercise a wide range of jurisdiction and has to possess wide range of powers to do justice in a given case. The power is given to exercise for the benefit of those who have right for clean environment which right they have to establish before the Tribunal. The power given to the Tribunal is coupled with duty to exercise such powers for achieving the objects.**

(emphasis supplied)

18. We may also refer to a three-judge bench judgment by the Hon'ble Supreme Court in **Bhopal Gas Peedith Mahila Udyog vs UOI** (2012) 8 SCC 326 noting that this Tribunal is a statutory and

specialized forum to deal with any issues relating to environment.

It was observed:

“40. Keeping in view the provisions and scheme of the National Green Tribunal Act, 2010 (for short "the NGT Act") particularly Sections 14, 29, 30 and 38(5), it can safely be concluded that **the environmental issues and matters covered under the NGT Act, Schedule I should be instituted and litigated before the National Green Tribunal (for short "NGT"). Such approach may be necessary to avoid likelihood of conflict of orders between the High Courts and NGT. Thus, in unambiguous terms, we direct that all the matters instituted after coming into force of the NGT Act and which are covered under the provisions of the NGT Act and/or in Schedule I to the NGT Act shall stand transferred and can be instituted only before NGT. This will help in rendering expeditious and specialized justice in the field of environment to all concerned.**

41. We find it imperative to place on record a caution for consideration of the courts of competent jurisdiction that the cases filed and pending prior to coming into force of the NGT Act, involving questions of environmental laws and/or relating to any of the seven statutes specified in Schedule I of the NGT Act, should also be dealt with by the specialized tribunal, that is, NGT, created under the provisions of the NGT Act. The courts may be well advised to direct transfer of such cases to NGT in its discretion, as it will be in the fitness of administration of justice.”

**(emphasis supplied)**

19. It is a matter of record that pursuant to setting up of NGT, even pending matters involving environmental issues have been transferred from Supreme Court and various High Courts to NGT, in view of NGT being the appropriate forum and venue.

20. The approach of a Court in dealing with the environmental issues cannot be hyper technical, for that would defeat the ends of justice, especially in matters where Right to Life is implicated. Once patent violations affecting Right to Life are in public domain, the court cannot be debarred from remedying the same on the sole ground that the affected party has it moved the court. The court can devise its own procedure to investigate and give relief to the victims in appropriate cases. This jurisprudence can also be

discerned from the judgment of a 3-judge bench of the Hon'ble Supreme Court in **M. C. Mehta v. UOI** (1987) 1 SCC 395 as follows:

"2. .. we cannot adopt a hyper-technical approach which would defeat the ends of justice. This Court has on numerous occasions pointed out that where there is a violation of a fundamental or other legal right of a person or class of persons who by reason of poverty or disability or socially or economically disadvantaged position cannot approach a court of law for justice, it would be open to any public spirited individual or social action group to bring an action for vindication of the fundamental or other legal right of such individual or class of individuals and this can be done not only by filing a regular writ petition but also by addressing a letter to the court. If this Court is prepared to accept a letter complaining of violation of the fundamental right of an individual or a class of individuals who cannot approach the court for justice, there is no reason why these applications for compensation which have been made for enforcement of the fundamental right of the persons affected by the oleum gas leak under Article 21 should not be entertained. The court while dealing with an application for enforcement of a fundamental right must look at the substance and not the form. We cannot therefore sustain the preliminary objection raised by Mr Divan.

3. ... It may now be taken as well settled that Article 32 does not merely confer power on this Court to issue a direction, order or writ for enforcement of the fundamental rights but it also lays a **constitutional obligation on this Court to protect the fundamental rights of the people and for that purpose this Court has all incidental and ancillary powers including the power to forge new remedies and fashion new strategies designed to enforce the fundamental rights. It is in realization of this constitutional obligation that this Court has in the past innovated new methods and strategies for the purpose of securing enforcement of the fundamental rights, particularly in the case of the poor and the disadvantaged who are denied their basic human rights and to whom freedom and liberty have no meaning.**

4. Thus it was in *S.P. Gupta v. Union of India*<sup>8</sup> that this Court held that (SCC p. 210, para 17):

**where a legal wrong or a legal injury is caused to a person or to a determinate class of persons by reason of violation of any constitutional or legal**

**right or any burden is imposed in contravention of any constitutional or legal provision or without authority of law or any such legal wrong or legal injury or illegal burden is threatened and such person or determinate class of persons is by reason of poverty, helplessness or disability on socially or economically disadvantaged position, unable to approach the court for relief, any member of the public or social action group can maintain an application for an appropriate direction, order or writ in the High Court under Article 226 and in case of breach of any fundamental right of such person or class of persons, in this Court under Article 32 seeking judicial redress for the legal wrong or injury caused to such person or determinate class of persons.**

This Court also held in *S.P. Gupta case*<sup>3</sup> as also in the *PUDR v. Union of India*<sup>1</sup> and in *Bandhua Mukti Morcha case*<sup>2</sup> that **procedure being merely a hand-maiden of justice it should not stand in the way of access to justice to the weaker sections of Indian humanity and therefore where the poor and the disadvantaged are concerned who are barely eking out a miserable existence with their sweat and toil and who are victims of an exploited society without any access to justice, this Court will not insist on a regular writ petition and even a letter addressed by a public spirited individual or a social action group acting pro bono publico would suffice to ignite the jurisdiction of this Court.**

6. So far as the power of the court under Article 32 to gather relevant material bearing on the issues arising in this kind of litigation, which we may for the sake of convenience call social action litigation, and to appoint Commissions for this purpose is concerned, we endorse what one of us namely, Bhagwati, J. as he then was, has said in his judgment in *Bandhua Mukti Morcha case*<sup>2</sup>. We need not repeat what has been stated in that judgment. It has our full approval.
7. **We are also of the view that this Court under Article 32(1) is free to devise any procedure appropriate for the particular purpose of the proceeding, namely, enforcement of a fundamental right and under Article 32(2) the court has the implicit power to issue whatever direction, order or writ is necessary in a given case, including all incidental or ancillary power necessary to secure enforcement of the fundamental right.** The power of the court is not only injunctive in ambit, that is, preventing the infringement of a fundamental right, but it is also remedial in scope and provides relief against a breach of the fundamental right already committed vide *Bandhua Mukti Morcha*

*case<sup>2</sup>. If the court were powerless to issue any direction, order or writ in cases where a fundamental right has already been violated, Article 32 would be robbed of all its efficacy, because then the situation would be that if a fundamental right is threatened to be violated, the court can injunct such violation but if the violator is quick enough to take action infringing the fundamental right, he would escape from the net of Article 32. That would, to a large extent, emasculate the fundamental right guaranteed under Article 32 and render it impotent and futile. We must, therefore, hold that Article 32 is not powerless to assist a person when he finds that his fundamental right has been violated. He can in that event seek remedial assistance under Article 32. The power of the court to grant such remedial relief may include the power to award compensation in appropriate cases. We are deliberately using the words "in appropriate cases" because we must make it clear that it is not in every case where there is a breach of a fundamental right committed by the violator that compensation would be awarded by the court in a petition under Article 32. The infringement of the fundamental right must be gross and patent, that is, incontrovertible and ex facie glaring and either such infringement should be on a large scale affecting the fundamental rights of a large number of persons, or it should appear unjust or unduly harsh or oppressive on account of their poverty or disability or socially or economically disadvantaged position to require the person or persons affected by such infringement to initiate and pursue action in the civil courts. Ordinarily, of course, a petition under Article 32 should not be used as a substitute for enforcement of the right to claim compensation for infringement of a fundamental right through the ordinary process of civil court. It is only in exceptional cases of the nature indicated by us above, that compensation may be awarded in a petition under Article 32. This is the principle on which this Court awarded compensation in Rudul Shah v. State of Bihar'. So also, this Court awarded compensation to Bhim Singh, whose fundamental right to personal liberty was grossly violated by the State of Jammu and Kashmir<sup>6</sup>. If we make a fact analysis of the cases where compensation has been awarded by this Court, we will find that in all the cases, the fact of infringement was patent and incontrovertible, the violation was gross and its magnitude was such as to shock the conscience of the court and it would have been gravely unjust to the person whose fundamental right was violated, to require him to go to the civil court for claiming compensation."*

**(emphasis supplied)**

There is no reason to not follow the above approach in the context of exercise of NGT jurisdiction. Section 20 of the Act requires this Tribunal to enforce the principles of Sustainable Development, including Polluter Pays and Precautionary Principle. These have been held to be part of Right to Life inter-alia in **Vellore Citizens' Welfare Forum v. UOI** (1996) 5 SCC 647 (Para 11, 13, 16-18).

21. There is no other forum entrusted such jurisdiction exclusively. Several serious issues of environment, including air, water, soil, and other life-threatening pollution have been taken up by this Tribunal *suo-motu*. The citizens affected in these cases were unable to access their remedies and approach the Tribunal, limited by varying disabilities and handicaps. In many instances, agencies posing as “public spirited”, who initially filed proceedings, then abandoned the proceedings for reasons, *bona fide* or otherwise, leaving the onus on NGT to prosecute *suo-motu* (or not at all). **If this Tribunal is prevented from instituting suo-motu proceedings, these issues and violations would remain unaddressed, citizens' inalienable right to life and other rights will stand jeopardized, and the serious and irreversible environment damage would continue unchecked.** No-one may raise such issues, much less the affected individuals suffering silently specially in remote areas. If even a third person claiming to be ‘public spirited’ can be given locus, why publicly known serious violations of environment affecting the Rule of law, human and existential rights must be objected to be protected by this Tribunal on such specious plea in the face of a clear constitutional, statutory, and international law mandate. Notwithstanding Constitutional jurisdiction of the High Courts, the Tribunal is not

debarred from dealing with substantial issues of environment for which this Tribunal has been exclusively constituted, in absence of express statutory provision or binding judicial decision. Any other view may seriously hamper environmental justice and scheme of parliamentary law and judgements of the Hon'ble Supreme Court. Issue of procedure is in discretion of this Tribunal, including initiation of *suo-motu* proceedings, unless expressly barred.

22. As regards cited orders, where notice has been issued on NGT's institution of *suo-motu* proceedings, the facts of those cases may be entirely distinguishable. The matters are pending, no decision has been made on the said contention nor binding law discussed. It cannot be taken that NGT has been debarred from instituting *suo-motu* proceedings in matters of even such grave nature as the present one. There being no stay of proceedings in this case, we find no merit in the Company's contention.

**b) Pendency of proceeding before High Court and other fora**

23. As regards pendency of proceedings in the High Court and other fora, and the Committees appointed by the various fora, we may note that there is no conflict on the core issue being considered by this specialized Tribunal as per mandate of law in judgements of the Hon'ble Supreme Court referred to above. The fact remains that the specialized statutory jurisdiction to award compensation is conferred on this Tribunal, which also has all and wide powers, procedure and mechanisms to resolve and award appropriate relief and remedies. Our attention has not been drawn to any other committee or court going in to the issue of compensation and restitution to the victims to the environment. Only this Tribunal

has required deposit of an amount to be used for compensation, to be disbursed under orders of this Tribunal. Even the Company has deposited the amount and cannot object to abide by further orders in this regard. Thus, without prejudice to any other proceedings, the Tribunal can perform and exercise its statutory jurisdiction. This has been made clear in order dated 08.05.2020 in Para 2 as follows:

**“2. ... Without prejudice to any other proceedings, this Tribunal has to perform its statutory obligation of providing relief and compensation to the victims of “environmental damage”, as statutorily enacted, and restitution of damaged property and environment. With a view to deal with the issue, it is necessary to ascertain the facts relating to the extent of damage, extent of failure and consider remedial measures. The affected parties have to be given the opportunity of being heard.”**

**(emphasis supplied)**

24. We also find no relevance of the observations in 1986 (Supp) SCC 20, para 83, relied upon by Shri Luthra, to the effect that when an issue is pending before a higher forum, the lower forum should not deal with the matter. The observations are in the context of a particular issue dealt with in the said judgment and not identical to the issue being dealt with herein.
25. The order of this Tribunal is not in conflict with any other orders nor the findings of the Committee are in conflict with any other committee.
26. There is a further point to be noted. The stand of the Company is that it has complied with the direction to deposit the amount of Rs. 50 crores in pursuance of order of this Tribunal dated 08.05.2020. The said deposit is to abide by orders of this Tribunal. If the

Tribunal is to close the proceedings, the Tribunal will not be able to pass any order to deal with the amount.

27. The company also submitted that the it will face inconvenience in dealing with multiple proceedings. The plea of inconvenience is absurd and untenable in the face of clear and absolute liability of the company for the loss of life, public health and the environment by its hazardous activities in violation of law.

B. Decision on merits in light of material on record

28. Heard counsel for the appearing parties. We find the Company has strict and absolute liability for the environmental damage and consequential loss including to life and public health in this case.

29. The stand of the MoEF&CC and the State PCB is unequivocal that the company did not have the requisite EC. There is also clear violation of the 1989 Rules. Liability of the company is strict and absolute in the circumstances. The report of the Joint Committee constituted by this Tribunal filed on 28.05.2020 is supported by clinching material consistent with the stand of the MOEFF&CC and state PCB. A copy of the report<sup>1</sup> has been uploaded on the website of CPCB and has been made available to the Company on the same date. Order dated 08.05.2020 was e-mailed to the Company on the same day. It is not disputed that the same was available. The Company made a deposit in pursuance of the said order. The Company had sufficient opportunity to respond to the issue, but has chosen to not do so. The oral plea of the learned Counsel for the Company that it does not have access to the record or has not had opportunity to respond is untenable. If the

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<sup>1</sup> <https://tinyurl.com/JtCommitteeReport>

Company could approach the Hon'ble Supreme Court on 13.05.2020 and is claiming to be cooperating with other Committees, there is no reason for the Company not to give any response, except unreasonable and irresponsible attitude of avoiding patent liability on a self-serving hyper technicality. The burden of proof in such matters lies squarely on the company, as held in M.C. Mehta and Vellore Citizens Forum (*supra*).

30. We note that against the order of the High Court dated 22.05.2020 seizing the premises of the company, the Hon'ble Supreme Court vide order dated 26.05.2020 in *SLP Civil Diary No. 11636/2020*, directed:

*“As an ad interim measure, we permit the petitioner to give a list of 30 personnel as discussed hereinabove. Upon such names being given to the District Collector, **those persons shall be afforded access to the plant round the clock to maintain adequate safety measures.**”*

*This ad interim direction will continue till the High Court considers the matter. The High Court may, thereafter, pass appropriate directions.”*

**(emphasis supplied)**

31. There is a statutory liability under the 1989 Rules to prepare on-site and off-site emergency plan and to maintain safety by any establishment dealing with the hazardous chemicals. It is undisputed that the company is covered by Rule 2(e) read with Entry No. 583 of Schedule-I to the Rules.
32. While liability of the company stands clearly established, we may refer to the report of the six-members Committee headed by Justice B. Seshasayana Reddy, Former Judge, A.P. High Court which supports and corroborates the liability of the company for loss of lives, public health and environment. We place on record

our gratitude to the Chairman and the members of the Committee to take this assignment as public service to advance justice even in the face of frightening disease Covid 19.

33. The Report states that due to COVID-19 situation, the Committee had to face restrictions on movement and travel. An interim report was filed on 17.05.2020 a copy of which has been annexed. The Committee has opined that the Company did not take proper care of the storage tank resulting in auto polymerization of styrene releasing excess heat which escaped from the goose-neck and dip hatch in the form of vapour. It is also mentioned that the unit was operating without the requisite EC. The State PCB had no clarity in the matter while granting the statutory consents without EC. The observations and suggestions of the Committee under relevant heads are quoted below:

#### **“2. SUMMARY OF INTERIM REPORT**

*In the interim report, committee has discussed about the background/history of the industrial unit i.e. M/s L G Polymer, status of its consent under Water (Prevention & Control of Pollution) Act, 1974 & Air (Prevention & Control of Pollution), 1981, grant of Environmental Clearance (EC) under Environment (Protection) Act, 1986, followed by the chemistry of styrene monomer (chemical that got leaked) and its behaviour in the storage tank. Various GOs related to the accident and compensation given by the Govt. of AP are also discussed. A copy of the interim report is given as Annexure II.*

***The committee, prima-facie, is of the view that the styrene gas/vapour leakage from the affected tank was due to the following reasons:***

- 1. Insufficient Tertiary Butyl Catechol (IBC, used as inhibitor to ureic/polymerization at lower temperatures) concentration in styrene tank due to unavailability of IBC in the plant.***
- 2. There is no monitoring system for dissolved oxygen in the vapour space which might have fallen down below 6%.***
- 3. The tank has no provision of monitoring temperatures at lop layers of the storage.***

4. **Refrigeration system was not being operated for 24 hours.**
5. **Gross human failure and negligence of the Person in-Charge of the plant and maintenance personnel of the storage tanks.**

The interim report clearly outlined the chronological details of efforts made by different stakeholders in obtaining EC. It is a fact that the unit was operating the facility without the requirement of prior EC. The expansion of the unit from time to time, continuity of its operation, efforts made by the unit in getting EC, correspondence of State Environment Impact Assessment Authority (SEIAA) in this regard, role of State Pollution Control Board, are detailed in the interim report page no 1-4. **However, as per the correspondence of the SPCB with MoEF&CC after the incident seeking clarification on requirement of EC shows lack of clarity by the SPCB in the provisions of the EIA notification, 2006 and amendments thereof.**

The failure of management in handling the crisis, the properties of styrene monomer, the lapses by different managerial staff in maintaining the pre and post operations were detailed in the interim report page no 5 to 10. It is stated that **"Our observations revealed that the management did not take proper care of the affected storage tank and it resulted in auto polymerization of styrene releasing excess heat which escaped from the goose-neck and dip hatch in the form of vapour".**

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### **Findings and Suggestions:**

#### **a) The sequence of events**

The unit was closed on March 24, 2020 and started preparations w.e.f. May 04, 2020 for its proposed resumption of operation on May 07, 2020. On the early hours of May 07, 2020 at about 03:00 AM, the tank with 1830 tons of storage had developed the leak of the STYRENE vapours from top of the tank and spread beyond the factory boundary towards the west side due to wind direction and affected the residents of five nearby areas namely, Venkatapuram, Venkatadri Nagar, Nandamuri Nagar, Pydimamba Colony and BC & SC colony. **It appears from an examination of nearby damaged trees that the gas plume moved at a height of about 0-20 feet from the ground towards the nearby settlements. Population within a radius of about 0.5 km was evacuated by the district administration.**

The sequence of operations carried out at the factory after the incident as per plant managers is as follows:

- 02:54 hrs: Gas detector alarm noticed in Control room (DCS).
- 03:02 hrs: High VOC alarm noticed in Control room (DCS).
- 03:02 hrs: Immediately DC'S operator informed to operator / safety person / Night duty officer.
- 03:02 hrs: M6 Tank temperature started rising.
- 03:03 hrs: Night duty Officer informed everyone about the high vapours at tank farm area.
- 03:03 hrs: Immediately night duty Officer tried to reach the fire hydrant sprinkler valve to open it, but due to high vapour cloud it was impossible to reach it.
- 03:04 hrs: Alerted all other members to bring Self-contained breathing apparatus (SCABA) sets to assembly point.
- 03:07 hrs: Informed plant safety head/Director Operations& others about the emergency.
- 03:07 hrs: Alerted security in-charge to get help from outside agencies (Fire services and Ambulance etc.). Root cause was identified as self-polymerization due to stagnant high polymer content.
- 03:30 hrs: Director Operations& Safety heads & plant officials arrived at site.
- 04:30 hrs: Two members went to open fire hydrant sprinklers using SCABA sets for MS /M6 /Pentane storage tank.
- 04:32 hrs: Emergency chemicals such as NDM, TDM, Antioxidant (Eunox-76) arrangements done.
- 05:15 hrs: Chemical inhibitors (N-Dodecyl Mercaptan, Tertiary Dodecyl Mercaptan and Eunox-76) dosing arrangements started immediately. About 2200 litres was pumped inside the tank.
- 06:30 hrs: 10 tonnes and 15 tonnes of Styrene was pumped to feed preparation & feed solution tanks, respectively.
- 07:30 hrs: 70 tonnes of Styrene pumped to one spare storage tank. Water poured through foam pourer & hydrant water sprinklers kept open for affected tank to cool down the tank.
- 09:30 hrs: Neighbouring residential areas of Venkatapuram, Janata Colony, SC & BC Colony, Padmanabhapuram are most affected.
- 22:45 hrs: Tank temperature reached 154°C.
- 08.05.2020 (Friday)03:30 AM: Temperatures started reducing from 154° C to 120° C by evening. Water has been continuously poured inside & outside tank.
- 09.05.2020 (Saturday)
- Water has been continuously poured inside & outside tank.
- At 09:00 AM tank temp reached to 100° C.
- As reported following chemicals were added to affected tank:
  - Eunox-76: 289 kgs
  - N-Dodecyl Mercaptan: 1059 kgs
  - Tertiary Dodecyl Mercaptan: 2487 kgs

A special aircraft was arranged for airlifting the NDRF joint team of 09 experts from Pune and Nagpur including CSIR-NEERI members. They reached on May 07, 2020, 23:00 Hrs. Apart from this, scientists from NEERI, Hyderabad also reached the site for further coordination. A central committee of Mr Shantanu Gite, an industrial expert in handling of styrene from Mumbai, and Dr Anjan Ray, Director CSIR-Indian Institute of Petroleum, Dehradun reached the affected site on evening of May 9, 2020 to assess the situation. This Central Committee made two inspections - one upon arrival and another in the morning of May 10, 2020, the latter along with the AP state-appointed committee constituted for investigating the incident.

The following industry personnel were present during the time of the accident:

<b>S. No</b>	<b>Name</b>	<b>Position</b>	<b>Education</b>	<b>Experience</b>
1	Sh. M Rajesh	Operator	Diploma in Chemical	2 Years
2	Sh. N Sudhakar	Asst. Manager	M. Sc. Organic Chemistry	13 Years
3	Sh. P Balajee	Manager	M. Tech in Chemical Engg.	6 Years
4	Sh. S Atchyut	Engineer	Diploma in Chemical Engg.	2 Years
5	Sh. K Chakrapani	Engineer	B. Sc. Chemistry	7 Years
6	Sh. U V Ramana	Asst. Engineer	B. Sc. Chemistry	5 Years
7	Sh. N Jayaram	Jr. Engineer	B. Sc. Chemistry	4 Years
8	Sh. KS Kiran Kumar	Asst. Manager	Intermediate	30 Years

**b) Causes of failures and authorities responsible thereof.**

The industrial unit has been closed since March 24, 2020 due to the COVID-19 lockdown. As on the day of lockdown, the raw material, Styrene was available in 4 storage tanks in the factory with the inventory of 1830 tons, 2725.9 tons, 242.6 tons, 242.5 tons. The unit was permitted for daily maintenance activities during the lockdown period with 15 persons per each shift with a total of 45 personnel working per day.

Govt. of Andhra Pradesh announced the resumption of operation of industries from May 04, 2020 and the management had proposed to resume their operations w.e.f. May 07, 2020. On the early hours of May 07, 2020, the tank with 1830 tons of storage had developed the leak of the styrene vapours from the top of the tank and spread beyond the factory boundary towards the west side due to wind direction and affected the residents of 5 nearby areas

namely, Venkatapuram, Venkatadri Nagar, Nandamuri Nagar, Pydimamba Colony and BC colony.

**The leaked tank was old and does not have temperature sensors at middle and top surface of the tank except only provision to measure the temperature at the bottom of the tank where refrigeration is provided. Due to lockdown, the storage tank was stand still. The styrene polymerises to polystyrene even at ambient temperature, in the absence of inhibitor, which itself is an exothermic reaction with very slow reaction rates. Although the reaction rates are slower, it will cause major operating issues, because of heat liberation and blockages in the tank.** The rate of this reaction doubles every 10 °C. The combination of polymerisation- heat liberation- temperature rise- and further polymerisation can lead to rapid reaction and heating, which is called as a 'run-away reaction'. As the temperature rises, styrene starts vaporising. The pressure in the storage tank will progressively increase, and the safety valves released the styrene vapour into the atmosphere. The increase in temperature and pressure was not observed by the industry. Had the safety valve failed, the whole tank would have been exploded and still bigger catastrophe would have been happened.

Styrene monomer with a boiling point of 145 °C, in liquid state remains monomer if it is maintained at low temperature preferably 15-18 °C. If the temperature approached 20 °C the tank must be cooled and under no circumstances the temperature should exceed 25 C. If its temperature is increased, self-polymerization starts slowly, which is an exothermic reaction, thereby liberating heat, which further increases the rate of polymerization and the chain reaction begins. This leads to exponential increase in polymerization. The monomer styrene is stored without letting self-polymerization by adding inhibitor substance like Tertiary Butyl Catechol (TBC). This inhibitor works at low temperature below 25 °C. TBC is not effective as inhibitor of monomer Styrene at high temperature. Another chemical named N dodecyl mercaptans (DDM) is used as inhibitor at high temperature. Since the content (styrene) is in closed container, rise in temperature increases the tank pressure. To avoid structural failure of tank, safety valves are provided, which gets opened at high pressure and releases the contents thereby reducing the pressure. Five valves are provided at the top of the affected tank roof. During the stagnant storage period, apparently the monomer styrene started self-polymerization leading to increase in temperature as the process is exothermic. The increased temperature further increased the rate of reaction resulting in increased pressure in the tank. Safety valves on the tank (M6) roof top got opened due to high pressure and started emitting styrene vapours. As per CCTV record, the emission started at about 02:42 hrs from M6 tank having 1830 tonnes of styrene. No alarm generated when vapour leakage

occurred and auto sensor of styrene is failed to detect the conc. in ppm.

There is no interlock system arrangement between the temperature and refrigeration system. There is no external water spray arrangement over the storage tank for exceeding ambient air temperature and also any unmanned hose arrangement.

It should be noted that in climate zones and in seasons with significant temperature difference between night and day, the styrene vapours evolved in the headspace at higher temperatures will condense on roofs, walls and internal fittings of storage tanks when it cools off. The phenolic inhibitors have high boiling points and stay in the liquid phase, resulting in the condensed styrene vapours containing no inhibitor. Also, the condensation will result due to long term storage of styrene monomer during 'zero process operation' without maintaining required cooling throughout the tank. **The leaked tank does not have any provision for measuring the vapour space temperature. Due to this, building-up of temperatures in top surface could not noticed by the industry. This reflects the clear cut case of negligence on Industry part.**

The incident is tragic but it could have been far worse had the affected tank, Tank M6, ruptured and the temperature of the tank contents had shot up far beyond the 154° C, well over the boiling point of styrene. An estimated 800 tons (8 lakh kg) of styrene escaped into the surroundings in the incident. It is reported that unit's inability to access personnel protective equipment in a timely manner, safety response preparedness of the site had impact in the early stages of safety operations. Further, the public siren system also could not be activated as it was manual and in an area rendered inaccessible by the vapour cloud else people in surrounding areas could have been alerted quickly and lives saved.

Root cause analysis showed that the problem possibly began on April 20, 2020 when the polymer concentration in Tank M6, which was idled at full capacity since March 25 post-lockdown. It is known that styrene monomer can exhibit reaction runaways because of their exothermic and auto-accelerating nature even at adiabatic conditions. The polymerization runaway "onset" temperature inversely increased with the monomer mass fraction and generally observed to be 66 C. Styrene polymerization reaction is relatively highly exothermic with a heat generation at around 71 kJ mol<sup>-1</sup>. At the same time, even without an initiator, two styrene molecules can undergo a Diels—Alder type of reaction and generate radicals to start self-polymerization upon heating. The polymerisation reaction being exothermic, if contained may become uncontrolled and the bulk styrene temperature may rise to a level at which polymerisation is self-sustaining and very rapid. This results

in evolving the release of large quantities of heat together with volumetric expansion and set off an undetected, slow but steady formation and growth of a hotspot within the tank where an exothermic (heat-generating) reaction of polymerization started. By early morning of May 7, the hotspot probably reached critical mass. Somewhere between 1:45 am and 2:40 pm, this led to a runaway reaction and the temperature shot up in the tank. However, the only two parameters being monitored in the tank - the temperature and the tank level were being measured through gauges at the bottom of the large tank (18m in diameter and 12 m in height) - presumably far from the hotspot, and these picked up the problem after it occurred at 2:40am. The first sign that anything was amiss was picked up the control room operator through a vapour release alert at 2:54 am, and the temperature alert only came 8 minutes later. **Mitigation of the impact could have been more effective had the chillers servicing Tank M6 been running. It was switched off at 5pm earlier that evening as per routine site practice as ambient night temperatures required little or no chilling. There was also no automated sprinkler arrangement for vapour loss as this had never been anticipated; the fire water sprinklers had to be manually activated. Another reason for the accident, TBC (inhibitor of the polymerization reaction) is not effective after liquid styrene temperature in storage rises above 52° C. Under these conditions, a short-stopper chemical should be added. It seems LG Chem did not consider this possibility. Also, no TBC was topped up in the affected tank M6 since April 1 since there was no stock at site and the tested TBC level of the contents was apparently in range. Clearly, it can be realized that the TBC level is not a good indicator of safety margins; the polymer content is a better measure for an early alert. With the experience world over of Styrene, it takes considerable amount of idle time to have polymerization inside tank if effective inhibition and chilling is maintained. The unit failed to assess this situation due lack in handling experience by trained man-power.**

**The root cause thus appears to be the lack of experience of LG Polymers India and their Korean principal. LG Chem, in monitoring and maintaining full tanks of styrene that were idled for a long period of several weeks without operation. Further, M6 is an old tank in design terms and this possibly contributed to the problem. The breather vent through which the boiling styrene escaped was 8 inches in diameter, enabling very significant outflow at the high temperature and pressure generated by the runaway reaction. Operators and any industrial persons are not aware of control measures in such situation is the main cause.**

**The above scenarios definitely point towards the accountability for lapses on part of the Industry, which rest with Managing Director of the unit, Certified Safety Officer, Safety Department, and Production Department. The role of issuing necessary safety certificate to the industry, the periodic inspections is the primary responsibility of Department of Industries, Factories and Boilers.**

**c) Extent of damage to life, human and non-human; public health; and environment — including, water, soil, air;**

The Ambient Air Quality Monitoring was carried out by APPCB for the parameter Styrene and TVOC in and around M/s L.G. Polymers from May 07, 2020 using hand held meter with minimum detection limit of 0.1 ppm styrene. Monitoring was carried out at eight locations in and around the industries. Venkatapuram village is 100m downwind of industry, Janatha Colony is 200m from opposite to industry, Gopalapatnam is 1.5 km upwind of industry and Pendurthy is around 1.5 km upwind of industry. During monitoring average wind speeds were 1.1 m/s having predominant wind direction from South West to North East. The concentrations of styrene were high at the time of accident in the villages. The concentrations could not be measured at the time as there were lethal and villages were inaccessible. Subsequently, the concentrations of styrene were measured in the ambient air at 9:30 am. The APPCB officials started the Ambient Air Quality Monitoring with handy samplers from 9.30 am on May 07, 2020 and Ambient Air Quality Monitoring was taken up on regular basis and the results are presented in the below table;

**Styrene values (ppm) range recorded at various locations around M/s. LG Polymers**

Station	07.05.2020		08.05.2020		09.05.2020		10.05.2020	
	Min	Max	Min	Max	Min	Max	Min	Max
Venkatapuram	0.0	461	0.0	374	0.0	3	0.0	1.5
Janatha Colony	0.0	1.3	0.0	6.2	0.0	0.9	0.0	0.2
Industry main gate	14.2	365	0.0	242	0.0	0.7	0.0	0.4
Gopalapatnam petro bunk	0.0	0.6	0.0	1.7	0.0	0.2	0.0	0.1
Pendurthy Road near way to LG polymers	0.0	1.2	0.0	3.0	0.0	0.2	0.0	0.2
Vepagunta	0.0	22.3	0.0	5.7	0.0	0.1	0.0	0.2
Venkatadri nagar	--	--	0.0	22.7	0.0	1.1	0.0	2.3
Storage tank	--	--	4.9	17.5	2.8	18	0.0	2.5

The team from CSIR-NEER1 Hyderabad Zonal Centre arrived at site on May 12, 2020 and conducted extensive sampling and monitoring of ambient air and water bodies of the affected area. The report is given as **Annexure-IV**. From the

data available with District Authorities, 12 people and 22 animals have died and estimated 3000 are affected. Venkatapuram village is near to the unit at a distance of 0.1 km. The committee also discussed about the extent of damage to life, human and non-human; public health; and environment - including, water, soil and air. Since the NEER' team has already conducted preliminary studies they may be engaged for further studies.

**d) Steps to be taken for compensation of victims and restitution of the damaged property and environment, and the cost involved;**

Compensation cost to be paid by industry shall be of two components; (i) Compensation paid by government and (ii) Environmental Compensation and restitution of the damaged property.

**i) Compensation announced by Govt.**

Government of Andhra Pradesh has announced Rs. 1 crore as compensation to the families of each of the deceased. Government will also compensate victims on ventilator support with Rs. 10 lakhs, and victims hospitalized but not on life-support with Rs. 1 lakh each. This will be provided in addition to the entire expenses of their hospitalization, critical care and recovery, which will be borne by the government.

Victims, who received primary care treatment due to surface injuries arising out of this gas leak, will be given Rs. 25,000 each. Many animals had also died after inhaling the gas, the government will give compensation of Rs. 20,000 per animal to their owners.

**ii) Environmental Compensation and restitution of the damaged property**

An elaborate scientific study is required to calculate the actual cost for environmental damage and restoration. The services of NEERI may be utilised since they have conducted the preliminary studies and also have such expertise.

**iii) Deposit of Rs. 50 crores by NIA LG Polymers P Ltd**

M/s LG Polymers Pvt Ltd failed to deposit Rs. 50 crores as per the Hon'ble NGT order. It is reported that the unit has approached Hon'ble Supreme Court seeking exemption in payments.

**e) Styrene Transportation after the incident;**

In consultation with LG Chem, South Korea, Govt. of AP, East India Petroleum Private Ltd, who maintain the facility at onshore, with NDRF team started transfer of

approx. 12800 tons of Styrene from T-2, T-23, (onshore tanks of 5500 KL capacity and 7300 KL capacity) M5, 111A & 111B tanks at Vizag port and LG Polymers plant in Vizag into vessels, which will carry them to South Korea.

On May 12, 2020, approx. 7900 tons of Styrene was loaded on a vessel and transported to South Korea. Till May 15, 2020 morning, out of 3000-ton Styrene at LG Polymers plant, 2143 tons has been transported to Vizag sea port tank. Remaining 857 tons is being transported. Sea Port storage tank at Vizag holds 4043 tons of Styrene. Once all the Styrene reaches Sea port storage tank from LG Polymers plant, a Second vessel will carry all this remaining 4900 tons Styrene to South Korea. For the complete transparency and accountability of the process, the permissions obtained to send the material back to South Korea, actual quantity and protocol followed shall be submitted immediately by Govt. of Andhra Pradesh, industries department, APPCB and District Magistrate.

**f) Suggestions for restoration:**

1. The affected tank poses no further risk but the polymerised mass has to be taken out and disposed at TSDF preferably incinerated. Alternate arrangements for converting to useful products may be explored after consultation with experts in the field so that incineration impact can be lowered.
2. Suggested to have all styrene inventories in the storage tanks of LGPI, including two outsourced shore tanks, having no chilling facility.
3. The unit shall be directed to empty all storage tanks with other chemicals, waste-residues, hazardous wastes, spill-material, intermediates, by-products and final product. The unit must share the material safety data sheets of the hazardous chemicals handled by it to concerned departments.

**g) Remedial measures to prevent recurrence;**

- 1) Hazard identification and evaluation in a local community, Preparation of Guiding Principles for Accident Prevention, Preparedness and Response for onsite and offsite emergency plans has to be reviewed.
- 2) A detailed study of the risk assessment and disaster management studies to be carried out by the industry
- 3) The styrene metabolites are of genotoxic and can cause carcinogenic health impacts to the population exposed based on different factors. It is suggested that the industry shall prepare a

comprehensive health monitoring programme along with reputed hospitals for the suspected population at least for five years. Based on the data and health results of the study the monitoring may further continued. The District Administration shall monitor the whole programme for its proper implementation.

- 4) Preparation of a comprehensive EIA report in accordance with the MoEF&CC guidelines.
- 5) Safety audit to be conducted by certified third party regularly for onshore facilities under Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 (MSIFIC Rules) for styrene import.
- 6) The distancing criteria for Storage tank of styrene has to be followed as per schedule 1 of MSIHC Rules, 1989.
- 7) Installation of the automatic siren when any parameter goes out of control. The siren needs to be done within and outside the industry so that the villages around are alarmed about the same
- 8) Emergency ambulance services to be arranged in the industry premises along with an experienced doctor.
- 9) Awareness campaigns in the villages around the industry to make them aware of the measures to be taken in case of any accident/ damage from the industry to the area around the industry.
- 10) Readymade PPE to be placed at the emergency points in case of any accident.
- 11) Separate safety manual to be prepared for each equipment along with the accidental management plan.
- 12) Periodic inspection by Department of Factories & Safety to assess the safety measures and documents maintained by the industry. If failed, necessary action shall be initiated against the industry.
- 13) API RP 575 protocol should be followed for inspection.
- 14) Design of storage tank should fulfil MoEF&CC notification dated 09.11.2012 with vapour control system.
- 15) Automatic styrene sensor should be installed in the different direction and residential with minimum detection limit of 1 ppm.
- 16) Carbon steel and stainless steel are suitable for handling styrene and Blanketing of tanks for fire protection should be considered.
- 17) The tank must have the capacity to contain the styrene product as well as enough volume for adding diluents to quench the reaction.
- 18) The administrative failures such as not obtaining Environmental Clearance from MoEF&CC. not implementing the recommendations of APPCB and factories of inspectors in time (based on inspection reports), failure of replacing the old storage tanks and having no safety measures for

temperature recordings, no safety audit reports are to be further investigated.

- 19) The role of factories and inspectors to be specified and their inspection protocol are to be assessed Pan-India. Since safety aspects are part of their mandate an independent audit is required in the light of many accidents reported due to failure of safety measures and lack of training.
- 20) In order to prevent such accidents, a District Crisis Group (DCG) needs to be established under the chairmanship of District Collector. This group has to meet every 45 days to review the safety and hazard issues of each and every industry. Similarly, State Crisis Group (SCG) needs to be established under Chief Secretary. This committee should meet every 3 months and review the onsite/offsite District emergency plan prepared by DCG and suggest the measures to be taken to minimize the accidents. Both DCG and SCG should make plans to create awareness among the people living in the surrounding area of the industry about chemical hazards and measures to be taken for accidents.
- 21) It is suggested that each State shall take responsibility in implementing the Chemical Disasters Management, protocol (March 2009 publication) and NIHDC remedial measures and submit Action taken Report.
- 22) Responsibility Matrices for Disaster Risk Mitigation as per National Disaster Management Plan (May 2016) has to be taken up and assess the implementation schedule by each States and UTs.

**h) Any other incidental or allied issues found relevant;**

The NGT Committee members conducted a public consultation meeting on May 12, 2020 at 10:30 hrs in GVMC Conference Hall with NGOs, residents from affected villages and Industrialists. The Committee requested to offer suggestions/representations/remarks on the mishap of LG Polymers Styrene gas leakage issue and further consequences in that locality including preventive measures.

The Committee has taken opinion of the participants by interacting with each and every individual, and the main observations of the participants are stated below.

1. The compensation must be paid both by the company and the Government since company is responsible for the accident. Compensation shall be based on Global Compensation norms.
2. The Company should conduct local public awareness campaigns about Do's/ Don'ts during, emergency.
3. **Since the NEERI team have already conducted preliminary studies and a report has been prepared,**

**it is suggested to engage the services of NEERI, for studies related to environment including water, soil and air.**

4. Adjacent to the L.G. Polymers company, VUDA approved layouts also there, hence habitations are developed around the company over a period of time. District administrations shall take more care in approving such layouts.
5. Material auditing, safety inspection reports shall be made online for public
6. **All the affected families should be given identity cards and Health cards by the Government and the expenditure on medical bills shall be borne by the unit. District Administration shall make necessary instructions and coordination.**
7. In the R.R. Venkatapuram surrounding villages, pregnant women also affected, hence the government has to take necessary monitoring mechanism for the pregnant woman.
8. **At the time of gas leakage, the villagers started to run away towards Vizianagaram, but the Police at Kothavalasa check post stopped all the people and directed them to stay in the nearby school. Lack of coordination between the district administrations of Visakhapatnam and Vizianagaram Districts was clearly visible during the incident.**
9. **The L.G. Polymers company management should be prosecuted under relevant sections Cr.P.C.**
10. All factories should be monitored through C.O cameras. The Companies as well as the Government neglected the Community Based Disaster Response system.
11. **The Government should ensure that hereafter all companies should take precautions and not to repeat such incidents. Awareness programme should be conducted in the surrounding areas of the industry.**
12. The first information was given by civilians to the police control room, but not by the company.
13. Why should building plan approvals given in 200 metres radius adjacent to the Factory. The Urban Development is also responsible for this incident.
14. All companies should have Public Addressing system, so that the public can be warned during the Disaster.
15. The Representatives of industry and CII have stated that The Government should take action for bringing World Class Disaster Management system.
16. Many people opined that neither the Inspector of Factory nor Fire officials are aware how to deal with chemical disasters.
17. Maintenance of buffer zone for all industries, stoppage of encroachments and policy of not allocating residential houses near to industry should be strictly followed.
18. The mapping has to be made for the Risk Assessment. It may be gas leakage, solvent firing, explosion etc.
19. Sensitization of public to deal with emergency in local and factory premises.

20. All factories should have mitigation plans for gas leakage solvent fire and should have emergency ward with medical staff for treatment.

**The NGT Committee visited all five affected villages (R R Venkatapuram/Venkatapuram, Nandamuri Nagar, Janatha Colony, SC/BC colony and Kancharapalem and physically seen the extent of damage at all places. Also, the committee interacted with local people about the sequence of events due to gas leakage.**

**i) Scope for further studies;**

CSIR-NEERI, Hyderabad Zonal (HZC) has already taken up an independent research study and the sampling work for various environmental components conducted from May 12-16, 2020. Since the NEERI team have already conducted preliminary studies and a report has been prepared, the services of NEERI may be utilised for further studies for calculating the cost of environmental damages related to flora and fauna. **The other suggested scope for studies are:**

- a) **Monitoring of the environmental parameters viz., air, groundwater, surface water, soil for the next 10-12 months to assess the long term concentration of styrene**
- b) **Vapour cloud dispersion studies**
- c) **Assessment of the environmental components for styrene concentration**
- d) **Remedial measures for contaminated soil, water**
- e) **Risk assessment studies for the accident**
- f) **Prediction of the effect of the accident over long term and short term through modelling studies**
- g) **Bio-assay test to understand the level of toxicity in the water."**

**(emphasis supplied)**

34. The observations of the Committee are based on site inspection by independent experts of unquestioned credibility. Observations to the extent of holding that the Company liable for the damage caused on account of leakage of gas to the life, public health and the environment corroborate the stand of the MoEF&CC and the State PCB. The company has operated without EC and the State PCB on account of its ignorance of law or otherwise gave 'Consent to Establish' and 'Consent to Operate' in violation of law. There is

violation of 1989 Rules. Liability of the Company is strict and absolute under the law. Burden of proof to show that it has no liability is on the company. Overwhelming material establish the liability of the company. The amount deposited has thus to be appropriated towards part liability and interim compensation subject to further orders after giving further opportunity to the company. This is without prejudice to final liability being quantified based on further study and proceedings under any other law.

**C. Failure of Authorities and need for remedial measures**

35. We are of the view that further remedial action needs to be taken in the matter of bringing to justice erring officers of authorities in the State of Andhra and liability of the State or officers being further gone into. There is also need for rehabilitation plan utilizing the interim and further compensation. Lastly regulatory framework needs to be reviewed and strengthened, apart from identifying steps to ensure compliance of laid down safety norms and laying down further norms and procedure to avoid recurrence of such failures in future.

36. Safety of citizens and environment are of prime concern. Any economic or industrial activity, however necessary, has to be consistent with the safety of human beings and the environment. The damage to human life, human health and environment has to be restored by applying the 'Sustainable Development' principle, of which 'Precautionary' and 'Polluter Pays' principles are part. In this regard, significant role has to be played by the statutory authorities constituted under the Water (Prevention and Control of

Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986.

37. Dealing with environmental issues, including unfortunate incidents, the Tribunal has found need to revamp the existing regulatory framework quantitatively and qualitatively. The Tribunal has noted the observations of the CAG and parliamentary Committees on the subject. Reference may be made to order dated 22.11.2019 in O.A. No. 837/2018, *Sandeep Mittal vs. Ministry of Environment, Forests & Climate Change & Ors.* after noting the status of current monitoring mechanism of the MoEF:

*“5. Further affidavit has been filed on 25.09.2019 on behalf of the MoEF&CC stating as follows:-*

*“1 to 6 xxx xxx xxx*

*7. That according, if only the projects issued EC during 2013-2019 are taken, then the best case scenario in terms of their monitoring could be 2.5 yrs with 50% enhancement in sanctioned staff strength and worst case scenario would be 4.5 years with Man in Position (MIP) which is 32 at present across the ten (10) ROs in the country. Accordingly, the repeat inspection of a unit can only happen after 2.5 yrs and 4.5 yrs, respectively in the above two scenarios. That if all the projects issued EC since 1994 onwards are taken then the best case scenario is 6.5 yrs with 50% enhancement in sanctioned staff strength and worst case scenarios is 13 years with MIP indicating that. The repeat inspection of a unit can only happen after 2.5 yrs and 4.5 yrs, respectively in these two scenarios.*

*8. That for Category ‘B’ projects for which compliance monitoring has been directed to be responsibility of SEIAA and SPCB, following to be taken note of:*

- a. Sanctioned staff strength and MIP of SEIAAs and SPCBs/PCCS are still not available.*
- b. SEIAA and SPCBs are under the administrative control of State Government.*
- c. There is ambiguity with respect to their present involvement in monitoring of EC conditions.*
- d. Accordingly, it has been difficult to speculate the timeframe for taking up and completion of monitoring of Cat B projects at present.*

- e. *The SEIAAs and SPCBs have been asked to provide information so that the above timeframe may be calculated.*
9. *That as directed, a Six Monthly Action Plan has been prepared to reduce the timeline, enhance coverage and transparency, reduce requirement of additional human resources while ensuring comprehensive compliance of environmental conditions, thereby resulting in greater protection of the environment on a continuing basis. The Six Monthly Action Plan is placed at Annexure R-2.*
10. *That as enumerated in the Action Plan, the Ministry plans to carry out a thorough assessment of the quantum of work involved and available human resources and accordingly take up the initiatives for comprehensive refining of the existing monitoring mechanism. Based on this exercise the following action are to be undertaken:*
- a. **Filling up of vacant posts wherever applicable.**
  - b. **Creation of additional posts in all the agencies to be involved in monitoring and compliance viz. ROs, CPCB, SEIAA and SPCBs; if required.**
  - c. **Hiring of young professionals as per feasibility.**
  - d. **Creation of new ROs, if required.**
  - e. **Utilizing services of CPCB and SPCBs to effectively discharge responsibilities of monitoring.**
  - f. **Strengthening Monitoring Cell within the Ministry.**
  - g. **Develop web based online mechanism to automate the entire process of inspection and compliance monitoring.**
11. *That the Action Plan provides a detailed roadmap for the coming months which includes:*
- a. **Hiring of an Independent Agency to assess the work requirement.**
  - b. **Constitution of Monitoring Evaluation Committee (MEC) to steer and supervise a new monitoring mechanism.**
  - c. **Engagement of Consultant for development of web based mechanism for end to end digitization.**
12. *That in the interim, till the larger Action Plan is implemented, in order to improve the monitoring process, following actions has been/will be taken up:*
- a. **Filling up on nine vacant posts of Scientists in the ROs.**
  - b. **Strengthening the Monitoring Cell in the Ministry.**
  - c. **Delegation of the action on monitoring reports of Category 'B' projects to SEIAA as per the**

**Notification no. SO 637 (E) dated 28<sup>th</sup> February 2014.**

- d. Evolving a mechanism for online maintenance of monitoring and compliance data with regard to Category-A and Category-B projects and integrating it with the existing PARIVESH portal of the Ministry.”**

6. We have considered the above averments as well as contents of annexures R-I and R-II giving data of the projects and ‘six monthly action plan’. We are of the view that the mandate of law is not complied with by the above stand of the MoEF&CC. **It is well acknowledged that there is rampant violation of the Environmental Clearance (EC) conditions. This Tribunal has, in order dated 21.11.2019, noticed serious violations of EC conditions with respect to A Category ‘housing projects’ in Haryana and found monitoring of conditions of EC ineffective.<sup>2</sup> The said order also refers to earlier orders wherein similar serious violations have been noticed. The violations include absence of scientific management of sewage and solid waste, not having open spaces, illegal drawal of ground water, construction in excess of sanctioned plan etc. It is difficult to say such violations are limited to State of Haryana. In absence of adequate mechanism, such rampant violation are bound to continue defeating the environmental principle of precautionary and sustainable development. In this regard, it is apt to note that this aspect was considered by the Hon’ble Supreme Court in T.N. Godavarman Thirumulpad Vs. Union of India & Ors. (2014) 4 SCC 61. Reference was made to the observations in Lafarge Umiam Mining Private Limited Vs. Union of India, (2011) 7 SCC 338 that power of the regulator under Section 3(3) of the Environment (Protection) Act, 1986 is coupled with duty and that the monitoring mechanism for the clearance conditions was not satisfactory. The Hon’ble Supreme Court also referred to a report on ‘Scope, Structure and Processes of National Environment Assessment and Monitoring Authority (NEAMA)’ for the Ministry of Environment and Forests, Government of India prepared by Department of Management Studies, Indian Institute of Technology, Delhi. Therein it was found that there are huge gaps in monitoring and enforcement of clearance conditions which defeats the purpose of Environmental Clearance process. The said finding quoted in the judgment is as follows:**

**“Several studies have pointed toward the poor monitoring of the clearance conditions. Huge gaps in monitoring and enforcement of clearance conditions actually defeats the very purpose of grant of conditional environmental clearance.”<sup>3</sup>**

<sup>2</sup> Order dated 21.11.2019, O.A. No. 506 / 2019, Mukund Dhote v. UOI & Ors.

<sup>3</sup> Para 10

7. **We also note the observations from Report of the Comptroller and Auditor General of India on Environmental Clearance and Post Clearance Monitoring 2016 that there are shortfalls in monitoring of environmental parameters. Reasons for such shortfalls are inadequate staff, inadequate database, not assigning clear responsibility for post EC monitoring, absence of monitoring at regular intervals particularly for critically polluted areas.**
8. **Thus, there is dire need for revamping the monitoring mechanism by MoEF&CC as well as SEIAAs, CPCB and State PCBs Post EC monitoring processes need revamping in quantitative as well as qualitative terms. There is need to prioritize the projects where potential environmental degradation is high on account of nature of activity as well as area being ecologically sensitive. In respect of such projects and in such areas, monitoring may have to be more intensive and at higher frequency. In no case frequency of monitoring should be less than once in a year.**
9. **The present scenario of monitoring once in 4.5 years and planned modification resulting in monitoring in 2.5 years is farce and does not meet the requirement of law by any standards. As already observed monitoring has to be, as far as possible, quarterly and in no case less than twice a year.**
10. **Data of environmental degradation in the form of air, water and soil pollution reflected in the form of 351 polluted river stretches, 122 non-attainment cities and 100 polluted industrial clusters is eloquent testimony of such degradation and failure of monitoring mechanism. Statistics of deaths and diseases on account of such degradation are well known and need not be elaborated here.**
11. **On being asked, learned counsel for MoEF&CC is unable to even mention the percentage of compliance as according to him there is no such data available, which is shocking. With a view to plan such monitoring, the percentage of compliance must be ascertained. Trend over a period of time in terms of increase in compliance or otherwise must be studied so that there can be corresponding review of mechanism based on correct data. Experience so far shows that with the increasing developments, in absence of adequate monitoring mechanism it would be difficult to check such violations thereby defeating 'precautionary' principle.**
12. **In view of the above, remedial action may be planned at the earliest. The plan should cover all the sub categories of projects, including B category.**

**Monitoring mechanism needs a also to be evolved for SEIAAs, regional offices of the MoEF&CC and the regional offices of CPCB. Since these steps are inalienable constitutional obligations, steps need to be taken to suitably augment the requisite manpower in these establishments for effective monitoring by MoEF&CC, CPCB and SEIAAs.**

**13. There is no information about the result of steps taken in terms of 'six monthly action plan' so far. Making of such plan may be of no value unless it is resulting in improvement of the ground situation in terms of strengthening of monitoring, which is not shown to be happening. Expressing difficulties in improving the situation is not a solution. If there is an EC regime, compliance has to be monitored. The principle of Sustainable Development and the Precautionary principle, which have been held to part of 'Right to Life' require that EC conditions are fully complied.**

**14. No satisfactory mechanism exists at present, as shown by the above affidavit itself. It is stated that, at present, it takes 4.5 years for monitoring which means that for such long period the non-compliance continues making mockery of law. There has to be speedy monitoring and speedy action, wherever necessary. There has to be a robust plan for the purpose which is the responsibility of the concerned Government Departments. We place on record our disapproval for the present sorry state-of-affairs and expect meaningful improvement.**

**15. We are, thus, of the view that for meaningful monitoring, all Category A projects are monitored not less than twice in a year and all Category projects are monitored not less than once in a year.**

**16. Let the Secretary, MoEF&CC and Chairman, CPCB hold a meeting with such other experts as may be found necessary and establish and/or augment the institutional setups in MoEF&CC, CPCB and SEIAAs for meaningful monitoring of Category A and B projects in the light of the above observations. Compliance report may be filed before this Tribunal by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) by MoEF&CC and CPCB. The MoEF&CC may also furnish compliance status by SEIAAs."**

**(emphasis supplied)**

38. Similarly, vide order dated 11.01.2019 in O.A. No. 95/2018, *Aryavart Foundation vs. M/s Vapi Green Enviro Ltd. & Ors.*, following observations may be noted:

- “37. ..The SPCB has not shown that it took any stringent action as required which can act as deterrent against violation of pollution norms. Simply issuing notice has not brought about the desired results. No closures have been ordered, nor prosecution launched nor other adequate preventive and remedial measures, including assessment and recovery of damages taken. In this respect, there is failure of GPCB. We may only observe that even a regulatory authority may be held accountable if it colludes with polluters by being required to pay damages or errant officers being held liable for action, including prosecution. **Frequent failures of regulatory bodies need to be remedied for meaningful enforcement of environmental norms.** This Tribunal in Threat to life arising out of coal mining in South Garo Hills district Vs. State of Meghalaya & Ors.<sup>4</sup>, held that **State machinery is also required to compensate for their negligence and failure which may act as deterrent against the officers who neglected their basic duty of protecting the environment or colluded with the polluters and law violators. The polluters as well as colluding officers are to be made accountable not only by prosecution or closure of industry but also by assessing and recovering such damages for loss to the environment as it may not only compensate the environment or victims but also act as deterrent to prevent further damage.**
38. It is well acknowledged that there is serious threat to the environment in this country. Studies show huge number of pollution related deaths and diseases<sup>5</sup>. Any violation of laid down environmental norms has to be seriously viewed and sternly dealt with.
39. It was in the year 1974 that the Water (Prevention and Control of Pollution) Act, 1974 was enacted after noticing that problem of pollution of rivers and streams had assumed considerable importance and urgency on account of growth of industries, threatening the sources of drinking water, the aquatic life and sources of irrigation. After considering the Expert Committee reports on the subject, the statutory framework was adopted giving enormous powers to the Pollution Control Boards (PCBs) for closure, prohibition or regulation of any industries operation or process as well as filing of complaints for prosecution. Minimum sentences have been laid down for violation of the norms. Polluter Pays Principle is an accepted norm

<sup>4</sup> O.A. No. 110(T<sub>HC</sub>)/2012 Order dated 04.01.2019 para 28-29

<sup>5</sup> [https://niti.gov.in/writereaddata/files/new\\_initiatives/presentation-on-CWMI.pdf](https://niti.gov.in/writereaddata/files/new_initiatives/presentation-on-CWMI.pdf)- India ranks 120th in 122 countries in Water Quality Index as per Niti Ayog Report, <https://www.thehindu.com/sci-tech/energy-and-environment/india-ranked-no-1-in-pollution-related-deaths-report/article19887858.ece>- Most pollution-linked deaths occur in India, <https://www.hindustantimes.com/india-news/delhi-world-s-most-polluted-city-mumbai-worse-than-beijing-who/story-m4JFTO63r7x4Ti8ZbHF7mM.html>- Delhi's most polluted city, Mumbai worse than Beijing as per WHO; [http://www.un.org/waterforlifedecade/pdf/global\\_drinking\\_water\\_quality\\_index.pdf](http://www.un.org/waterforlifedecade/pdf/global_drinking_water_quality_index.pdf)- WHO Water Quality Index.

within the purview of regulatory regime. The statutory functions of the PCBs, include programs for prevention, abatement and control of pollution and exercise all incidental powers. The CPCB has powers to issue directions to the State Boards. Needless to say, that similar provisions have been made for protection of air quality under the Air (Prevention and Control of Pollution) Act, 1981 as well as for other environmental issues under the Environment (Protection) Act, 1986.

40. As already noted, the SPCB is equally accountable for its failure and in appropriate cases can be prosecuted for conspiracy or collusion with other offenders causing pollution. The pollution cannot be allowed to be profitable activity and deterrent action must be taken wherever pollution is found so as to render causing of pollution unprofitable and unacceptable to prevent damage to the health and lives of the citizens. Any polluter must be subjected to heavy and deterrent economic sanctions. Unfortunately, this is not happening as expected for which failure the regulatory authority cannot disown their responsibility.

41. **We note that the State of Environment in the country, even as per official figures, is alarming. As many as 351 river stretches have been declared to be polluted by the CPCB. Vide order dated 20.09.2018 in Original Application No. 673/2018, News item published in 'The Hindu' authored by Shri. Jacob Koshy Titled "More river stretches are now critically polluted: CPCB", this Tribunal considered the issue of such polluted stretches and noticed the directions of the Hon'ble Supreme Court from time to time for stopping discharge of untreated sewage and effluents in water bodies. Such discharge causes serious diseases, including Cholera and Typhoid. Sewage treatment capacity was disproportionate to the sewage generated. As per some studies noted in the order, 75 to 80% water is polluted in India. Pollution of River Yamuna<sup>6</sup>, Ganga<sup>7</sup>, Hindon<sup>8</sup>, Ghaggar<sup>9</sup>, Sutlej and Beas<sup>10</sup>, Son<sup>11</sup>, Subarnarekha<sup>12</sup>, Ami<sup>13</sup> were also noted. The States were directed to prepare action plans to make the water of the polluted river stretches atleast fit for bathing within six months from the dates of preparation of approved action plans. When the matter was reviewed on 19.12.2018, it was found that only 16 States had**

<sup>6</sup> Manoj Mishra Vs. Union Of India O.A. No. 6/2012 order dated 26.07.2018

<sup>7</sup> M.C. Mehta vs. Union of India O.A. No. 200/2014 order dated 06.08.2018

<sup>8</sup> Doaba Paryavaran Samiti vs. State of U.P. and Ors. O. A. No. 231/2014 Order dated 08.08.2018

<sup>9</sup> Stench Grips Mansa's Sacred Ghaggar River (Suo-Motu Case) and Yogender Kumar O.A. No. 138/2016 Order dated 07.08.2018

<sup>10</sup> Sobha Singh and Ors. Vs. State of Punjab and Ors. O.A. No. 916/2018 Order dated 14.11.2018

<sup>11</sup> Amarshakti vs. State of Bihar and Ors. O.A. No. 596/2016 Order dated 24.08.2018

<sup>12</sup> Sudarsan das vs. State of West Bengal and Ors. O.A. No. 173/2018 Order dated 04.09.2018

<sup>13</sup> Meera Shukla vs. Municipal Corporation, Gorakhpur and Ors. O.A. No. 116/2014 Order dated 25.10.2018

*prepared action plans, most of which were not complete. The direction was issued for payment of environmental compensation per month by every State/UT for failure to prepare action plan and also to furnish Performance Guarantees for execution of the action plans within the stipulated time.*

42. *This Tribunal in News Item Published in ‘The Times of India’ Authored by Shri Vishwa Mohan Titled ‘NCAP with Multiple timelines to Clear Air in 102 Cities to be released around August 15’<sup>14</sup> has dealt with the issue of 102 air polluted cities identified by the CPCB. Taking into account eminent threat to human health as a result of air pollution, this Tribunal directed all the States/UTs with non-attainment cities to prepare action plans for bringing down the standards of air quality within the prescribed norms within six months. The Tribunal further constituted the Air Quality Monitoring Committee to ensure implementation of such action plans. The CPCB and the SPCBs were entrusted with the responsibility to design a robust nation-wide ambient air quality monitoring program to strengthen the existing monitoring network.*
43. *In re: Compliance of Municipal Solid Waste Management Rules, 2016<sup>15</sup>, the Tribunal directed preparation of action plans for solid waste management consistent with the Solid Waste Management Rules, 2016 in view of the fact that as per annual report of the CPCB prepared in April 2018, most of the States were not complying with the statutory rules.*
44. *As already noted earlier, this Tribunal considered the matter of polluted industrial clusters in News Item published in ‘The Asian Age’ Authored by Sanjay Kaw titled ‘CPCB to rank industrial units on pollution levels’ vide order dated 13.12.2018. It was noted that 43 industrial clusters in 16 States were identified as Critically Polluted Areas and 32 industrial clusters were categorized as Seriously Polluted Areas. In 2017-18, the number of identified polluted industrial clusters went upto 100. Accordingly, the Tribunal directed the State Pollution Control Board to finalize time bound action plan to restore the environmental quality as per the norms laid down by the CPCB and directed CPCB and SPCBs to take coercive measures against the violators on the basis of ‘Precautionary Principle’ and ‘Polluter Pays Principle’.*

<sup>14</sup> Original Application No. 681/2018 Order dated 08.10.2018

<sup>15</sup> Original Application No. 606/2018 Order dated 31.08.2018

**45. In *Techi Tagi Tara Vs. Rajendra Singh Bhandari & Ors.*<sup>16</sup>, the Hon'ble Supreme Court noted that the State Pollution Control Boards (SPCBs) continued to be manned by persons not having expertise or professional experience. The State Governments were not able to appoint qualified, impartial, and politically neutral persons of high standing to the crucial regulatory posts. Political appointments were being made in blatant violation of Apex Court guidelines to debar favorable persons being appointed.<sup>17</sup> The appointments being made did not inspire the confidence of the people. The Hon'ble Supreme Court directed all the States to frame guidelines and recruitment rules within six months. It may be pertinent to lay emphasis on the following observations of the Hon'ble Supreme Court in the aforesaid judgment:**

**“Unless corrective measures are taken at the earliest, the State Governments should not be surprised if petitions are filed against the State for the issuance of a writ of quo warranto in respect of the appointment of the Chairperson and members of the SPCBs. We make it clear that it is left open to public spirited individuals to move the appropriate High Court for the issuance of a writ of quo warranto if any person who does not meet the statutory or constitutional requirements is appointed as a Chairperson or a member of any SPCB or is presently continuing as such.”**

<sup>16</sup> (2018) 11 SCC 734 para 3-4, 28-34: The judgment takes into consideration various Committees appointed laying down guidelines for the functioning of SPCBs viz.,

- (a) Bhattacharya Committee (1984) proposed that the structural organization of SPCBs should consist of technical services, scientific services, planning, legal services, administrative services, accounts, training cell and research and development.
- (b) The Belliappa Committee (1990) - Recommended (i) introducing elaborate monitoring, reporting and organizational systems at the national level along with four regional centres and one training cell in each Board, (ii) effecting suitable changes in the Boards recruitment policy to enable them induct persons with suitable academic qualifications, and (iii) ensuring that the Chairman and Member-Secretary are appointed for a minimum of three years.
- (c) The Administrative Staff College of India (1994) - Recommended, inter alia, that (i) the SPCBs be reoriented for implementing the instrument mix of legislation and regulation, fiscal incentives, voluntary agreements, information campaigns and educational programmes.
- (d) The Menon Committee – Recommending that the State Governments should not interfere with recruitment policies of the SPCBs, especially where the Boards are making efforts to equip their institutions with more and better trained engineering and scientific staff.

<sup>17</sup> *Ibid.* The judgment notes the report of the Tata Institute of Social Sciences published in 2013 titled “Environmental Regulatory Authorities in India: An Assessment of State Pollution Control Boards” which stated about the appointments to the SPCBs that time and again across state governments have not been able to choose a qualified, impartial, and politically neutral person of high standing to this crucial regulatory post. The recent

appointments of chairpersons of various State Pollution Control Boards are in blatant violation of the Apex Court guidelines. The primary lacuna with this kind of appointment was that it did not evoke any trust in the people that decisions taken by an ex-official of the State or a former political leader, appointed to this regulatory post through what appeared to be a totally non-transparent unilateral decision. Many senior environmental scientists and other officers of various State Pollution Control Boards have expressed their concern for appointing bureaucrats and political leader as Chairpersons who they feel not able to create a favourable atmosphere and an effective work culture in the functioning of the Board.

46. **In addition to this, the Parliamentary Standing Committee on Science and Technology, Environment and Forest, August 2012 in its recommendations on the working of the SPCBs was perturbed to note that the SPCBs were not performing their duties vigilantly and recommended that MoEF&CC must ensure proper and effective coordination between the CPCB and SPCBs and take necessary steps to make the Pollution Control Boards functional and ensure that the discharge their duties effectively and efficiently.<sup>18</sup>**

47. **During the hearing it was stated by the learned Counsel for the GPCB that guidelines in terms of Techī Tagī Tara (supra) have been issued and thus, the judgment has been complied with. However, he has not been able to dispute that the persons appointed are not having technical or professional qualifications or background as expected.**

48. This Tribunal, on 20.07.2018, in *Satish Kumar vs. U.O.I & Ors.*<sup>19</sup> also observed that persons of judicial background may be required in key position in PCBs as several functions of the SPCBs are quasi-judicial.

49. The order of this Tribunal dated 07.08.2018 in *Stench Grips Mansa's Sacred Ghaggar River (Suo-Moto Case)*<sup>20</sup> noted that a task force must be constituted in every district and State to give reports on the environmental issues which should be published on the websites.

50. **The Tribunal in the order on 08.08.2018 in *Doaba Paryavaran Samiti Vs. State of U.P. & Ors.*<sup>21</sup> noted that statutory authorities had miserably failed and were required to be held accountable for their failure.**

51. In view of the fact clean environment, apart from other statutory provisions, is a mandate of Article 21 of the Constitution, causing of pollution having serious implications on health of the citizens cannot be accepted and no responsible authority could simply throw its hands in despair.<sup>22</sup>

52. Thus, there being far from satisfactory governance on the part of the SPCBs, as depicted by the compiled data, resulting in large number of deaths and diseases in the country, remedial measures are required. Lack of effective governance in the present case is patent from absence of

<sup>18</sup> Accessible at:  
<http://164.100.47.5/newcommittee/reports/EnglishCommittees/Committee%20on%20S%20and%20T,%20Env.%20and%20Forests/230.pdf>

<sup>19</sup> O.A No. 56 (THC) of 2013

<sup>20</sup> O.A. No. 138/2016 (T<sub>NHRC</sub>)

<sup>21</sup> O.A. No. 231/2014

<sup>22</sup> *Supra* note 18

*steps for prosecution of the guilty persons or recovery of damages for restoration of the environment which is primary responsibility of the SPCB. Appointment process does contribute to such ineffectiveness.*

53. *There is, thus, urgent need to review the qualification and appointment procedure so as to realistically comply with the mandate of the judgment of the Hon'ble Supreme Court. There is also need to carry out performance audit of functioning of all the Pollution Control Boards and Pollution Control Committees in the country and to identify remedial steps required in manning and functioning of SPCBs and PCCs or otherwise. Unless strong effective regulatory regime is in place, and shortcomings identified and remedied to expect clean environment would be unrealistic and merely a dream."*

**(emphasis supplied)**

39. Vide order dated 28.08.2019 in O.A. No. 95/2018, *Aryavart Foundation vs. M/s Vapi Green Enviro Ltd. & Ors.*, following observations may be noted:

"13. Report dated 10.07.2019 filed by the CPCB is on the subject of performance audit of the State PCBs/PCCs. The report merely ranks the PCBs/PCCs, without proper assessment of the functioning.

14. **What is expected is performance audit on issues such as adequacy with regard to environmental monitoring, efficacy of regulatory setup/mechanisms, staffing both technical and scientific manpower, scientific equipments, logistics support, competence etc. rather than ranking the States. Let the same be done and state-wise reports submitted based on thorough analysis in terms of statutory functions. CPCB may devise an appropriate mechanism for the purpose. We also direct that all vacant positions in the SPCBs/PCCs may be filled up at the within four months and the Chief Secretaries of the States/UTs may ensure that there is no embargo in doing so, so that effective steps for protection of environment can be taken. It is also necessary to direct that the laboratories established by the SPCBs/PCCs, at headquarters as well as regional centers, are duly recognized for purposed of enforcement of environmental laws. The concerned authorities may take further steps accordingly. The CPCB may compile a report and file before the next date. SPCBs/PCCs may utilize the funds available with them, under EC/Consents or other heads instead of approaching other authorities and on that pretext**

**not performing their essential function. The MoEF&CC may consider constituting an appropriate authority for the purpose with representatives from Central and State authorities on the pattern of Compensatory Afforestation Fund Management and Planning Authority (CAMPA) or otherwise. A compliance report be filed by the MoEF&CC before the next date.**

..... ...

*Directions:*

*iii. Performance audit be done with reference to issues such as adequacy with regard to environmental monitoring, efficacy of regulatory setup/mechanisms, staffing both technical and scientific manpower, adequacy of laboratories and scientific equipments, logistics support, competence etc. rather than ranking the States and state-wise reports submitted along with recommendations based on thorough analysis in terms of statutory functions before the next date. CPCB may devise an appropriate mechanism for the purpose. CPCB and MoEF&CC may file a compliance report with reference to observations in para 14 above.”*

**(emphasis supplied)**

**D. Further Directions:**

40. In view of above, we issue following directions in the matter:

- i. The amount of Rs. 50 crores deposited by the Company with the District Magistrate, Vishakhapatnam will stand appropriated towards part liability and interim compensation to be spent for restoration of the environment and compensation for victims in accordance with the restoration plan to be prepared.
- ii. Restoration plan may be prepared by a Committee comprising two representatives each of MoEF&CC, CPCB and three representatives of State Government to be named by the Chief Secretary, including the District Magistrate, Vishakhapatnam and such other concerned Departments

within two months from today. MoEF&CC will be the nodal agency for the purpose.

iii. Final quantification of compensation may be assessed by a Committee comprising representatives of MoEF&CC, CPCB and NEERI. The said Committee will be at liberty to associate/co-opt any other expert institution or individual. The Secretary, MoEF&CC may ensure constitution of such Committee within two weeks from today. The Committee may give its report within two months thereafter. MoEF&CC will be the nodal agency for the purpose.

iv. The Chief Secretary, Andhra Pradesh may identify and take appropriate action against persons responsible for failure of law in permitting the Company to operate without statutory clearances within two months and give a report to this Tribunal

v. In view of the stand of the State PCB and the Company that it will not recommence its operation without requisite statutory clearances, we direct that if any such statutory clearances are granted and the Company proposes to recommence, this aspect must be brought to the notice of this Tribunal so that compliance of law is ensured.

vi. The MoEF&CC may also constitute an Expert Committee to suggest ways and means to revamp monitoring mechanism to check and prevent violation of environmental norms and preventing any such recurrence in future in any of the establishments dealing with hazardous chemicals. A special

drive may be initiated in this regard. An action taken report may be furnished within three months from today.

vii. This order will not prejudice any criminal or other statutory proceedings in accordance with law.

41. A copy of this order be sent to the Chief Secretary, Andhra Pradesh, MoEF&CC, CPCB, District Magistrate, Vishakhapatnam and NEERI by e-mail.

42. Reports may be furnished by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image/PDF.

List for further consideration on 03.11.2020.

Original Application No. 76/2020 (Earlier Original Application No. 68/2020 (SZ))  
EAS Sarma vs. Union of India & Ors.

43. According to the averments in the application, the applicant is a former Secretary to the Government of India residing at Vishakapatnam. This application was filed on 07.05.2020 before the Southern Zone Bench of this Tribunal at Chennai with following prayers:

- “i. Direct for immediate closure of the plant of respondent No.04.*
- ii. Direct the fixing of Responsibility of the officials of Respondent No.3 and direct further for action to be taken against them for permitting Environment Pollution in connivance with the Unit/Project Proponent-Respondent No.4*
- iii. Direct the Project Proponent-Respondent No. 4 to pay environmental damages for polluting the environment.*

*iv. Direct for setting up of a Committee for settling of claims of local inhabitants who are victims of the Pollution caused by unit-Respondent No.4”*

Case of the applicant is that respondent no. 04 (L.G. Polymers India Pvt. Ltd.) was operating without requisite EC. During its operation, inherently dangerous gas called styrene (PVC gas) leaked resulting in death of about 10 persons and disease of about 1000 persons. The said company was thus liable to compensate the victims and the environment. The State PCB was negligent in permitting the unit to operate. The applicant relied upon newspaper reports and photographs.

44. The Southern Bench of this Tribunal took up the matter on 13.05.2020 and noted that this Tribunal was considering the issue in *suo moto* proceedings in O.A No. 73/2020. Accordingly, the Bench directed that the matter be referred to the Principal Bench for further action.

45. Since this present application does not raise any additional issue, it is not necessary to pass any further order at this stage. However, if it becomes necessary, further order will be passed later in due course.

List again on 03.11.2020.

Original Application No. 80/2020 (Earlier Original Application No. 73/2020 (SZ))

Centre for Wildlife and Environmental Litigation Foundation vs. Union of India & Ors.

46. This application also involves the same issue as O.A 76/2020 with no additional issue for material.

List again on 03.11.2020.

Adarsh Kumar Goel, CP

Sheo Kumar Singh, JM

Dr. Nagin Nanda, EM

June 1, 2020  
Original Application No. 73/2020  
and other connected matters  
DV



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ITEM NO.7+8

VIRTUAL COURT NO.2

SECTION XVII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL Diary No.11327/2020

(Arising out of impugned final judgment and order dated 08-05-2020 in OA No.73/2020 passed by the National Green Tribunal)

LG POLYMERS INDIA PRIVATE LIMITED

Petitioner(s)

VERSUS

ANDHRA PRADESH POLLUTION CONTROL BOARD & ORS.

Respondent(s)

WITH

SPECIAL LEAVE PETITION (CIVIL) Diary No.11636/2020

Date : 15-06-2020 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT  
HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR  
HON'BLE MR. JUSTICE VINEET SARAN

For Petitioner(s) Mr. Mukul Rohatgi, Sr. Adv.  
Ms. Pallavi Shroff, Adv.  
Mr. Anuj Berry, Adv.  
Mr. Chaitanya Safaya, Adv.  
Mr. Sourabh Rath, Adv.  
Mr. Kostubh Devnani, Adv.  
Ms. Anusha Ramesh, Adv.  
Mr. PSS Bhargava, Adv.  
Mr. Abhik Chakraborty, Adv.  
Mr. Tanvee Kanaujia, Adv.  
Mr. Shardul S. Shroff, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following  
O R D E R

I] In Civil Appeal Diary No.11327 of 2020 the order taking *Suo Moto* cognizance by the National Green Tribunal is under challenge.

terms of order dated 19.05.2020 passed by this Court, submissions were raised and the National Green Tribunal by its order dated 01.06.2020 has ruled that it has power and jurisdiction

Signature Not Verified

 Digital Signature by  
MUKESH KUMAR  
Date: 2020.06.15  
19:02:34 IST  
Reason: -

to take *suo moto* cognizance in respect of environmental issues. The order passed by the National Green Tribunal has been placed on record along with I.A. No.52391 of 2020.

Said order records that the Report of the Committee was uploaded on 28.05.2020 and said Report has been relied upon by the National Green Tribunal.

During the course of its order, the National Green Tribunal has also observed that the amount of Rs.50 crores, which was deposited pursuant to the initial order passed by the National Green Tribunal, be appropriated towards part liability and interim compensation.

Mr. Mukul Rohatgi, learned Senior Advocate submitted *inter alia*:

- a. The Report of the Committee was uploaded on 28.05.2020 and the decision was rendered by the National Green Tribunal on 01.06.2020 and as such the time available for the appellant to put in its response to the Report was highly inadequate. In the circumstances, the Report of the Committee ought not to have been relied upon.
- b. Because of the multiplicity of the proceedings pending before different Fora/Courts and the fact that the record of the appellant is presently lying in sealed condition, the appellant has been completely handicapped in presenting its viewpoint and could not appropriately file its response to the Committee; and

- c. The appellant is taking steps to challenge the order dated 01.06.2020 passed by the National Green Tribunal and till such time, the directions so far as disbursements from the amount deposited by the appellant are concerned, be suspended.

Though there is no substantive challenge insofar as the order dated 01.06.2020 is concerned, considering the fact that the initial order is presently under challenge, we pass ad-interim direction staying the operation of the directions issued by the National Green Tribunal in para 40 of its order dated 01.06.2020 for next ten days.

II. Special Leave Petition (Civil) Diary No.11636 of 2020 arises out of the order dated 22.05.2020 passed by the High Court of Andhra Pradesh at Amaravathi in WP (PIL) No.112 of 2020, WP (PIL) No.117 of 2020 and WP (PIL) No.119 of 2020.

By an ad-interim order dated 26.05.2020, this Court had permitted the appellant to submit a list of 30 personnel in the office of the District Magistrate so that their services could be availed of to maintain adequate safety measures at the plant in question.

Mr. Mukul Rohatgi submitted that three sets of applications are presently pending consideration before the High Court.

- (a) Seeking access to the plant by way of ad-interim relief;

- (b) Seeking appropriate directions so that the finished products lying in the plant can be allowed to be cleared; and
- (c) Seeking appropriate directions that the original record lying in sealed condition be de-sealed so that the appellant can have access thereto and respond to various queries put by various Committees.

It appears that in first two sets of applications, notices have been issued by the High Court but no notice has yet been issued insofar as application at Serial No.(c) is concerned.

We have also been given to understand that the matters were initially listed before the Bench comprising Hon'ble the Chief Justice and Hon'ble Smt. Justice Lalitha Kanneganti. However, during summer vacation, the matters were listed before some other Bench but the matters could not be heard and disposed of.

Now that the High Court has resumed its functioning after summer vacation, we request the Chief Justice of the High Court to either list the matters before the Bench presided over by the Chief Justice or to assign them to any other appropriate Bench so that all the pending applications can be disposed of at an early date.

Mr. Mukul Rohatgi submitted that the appellant intends to file one more set of applications seeking directions that the plant be de-sealed and the Passports of the Directors which are lying deposited with the concerned authorities be returned to them. We say nothing so far as the merits or demerits of the contentions are

concerned. As and when such application is filed, the same shall be considered on merits.

We request the High Court to dispose of the matters as early as possible and preferably by the end of the next week.

List these matters after two weeks before the appropriate Bench.

(MUKESH NASA)  
COURT MASTER

(PRADEEP KUMAR)  
BRANCH OFFICER

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**S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S**

**Writ Petition (Civil) No.527/2020**

**BALAMURALIKRISHNA YADAVALLI**

**Petitioner(s)**

**VERSUS**

**L.G. POLYMERS INDIA PVT. LTD. & ORS.**

**Respondent(s)**

**(FOR ADMISSION)**

**Date : 17-06-2020 This petition was called on for hearing today.**

**CORAM :**

**HON'BLE MR. JUSTICE UDAY UMESH LALIT  
HON'BLE MR. JUSTICE VINEET SARAN**

**For Petitioner(s)**

**Mr. A.A. Kalebudde, Adv.  
Mr. Mukesh Kumar Singh, Adv.  
Mr. Taherabi Kalebudde3, Adv.  
Mr. Ikshit Singhal, Adv.  
Mr. Shantanu Jugtawat, Adv.  
Mr. Amit, Adv.  
M/s. Mukesh Kumar Singh & Co., AOR**

**For Respondent(s)**

**UPON hearing the counsel the Court made the following  
O R D E R**

**List along with Civil Appeal Diary No.11327 of 2020 and  
connected matter.**

**(MUKESH NASA)  
COURT MASTER**

**(PRADEEP KUMAR)  
BRANCH OFFICER**

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ITEM NO.13

Virtual Court 3

SECTION XVII

**S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S**

Civil Appeal No(s). 2665/2020

LG POLYMERS INDIA PRIVATE LIMITED

Appellant(s)

VERSUS

ANDHRA PRADESH POLLUTION CONTROL BOARD & ORS. Respondent(s)  
(IA No.57475/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED  
JUDGMENT and IA No.57476/2020-EX-PARTE STAY and IA No.57477/2020-  
EXEMPTION FROM FILING AFFIDAVIT and IA No.57479/2020-PERMISSION TO  
PLACE ON RECORD SUBSEQUENT FACTS and IA No.57478/2020-PERMISSION TO  
FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 26-06-2020 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL  
HON'BLE MR. JUSTICE B.R. GAVAI

For Appellant(s) Mr. Mukul Rohatgi, Sr. Adv.  
Mr. M. Thangathurai, Adv.  
Ms. Pallavi Shroff, Adv.  
Mr. Anuj Berry, Adv.  
Mr. Aashish gupta, Adv.  
Mr. Chaitanya Safaya, Adv.  
Mr. Kostubh Devnani, Adv.  
Mr. PSS Bhargava, Adv.  
Mr. Varun Byreddy, Adv.  
Mr. S. S. Shroff, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following  
O R D E R

Applications for exemption from filing certified  
copy of the impugned judgment and exemption from filing  
affidavit are allowed. Applications for permission to  
place on record subsequent facts and to file additional  
documents/facts/annexures are allowed.

Issue notice.

Tag with Civil Appeal Diary No.11327 of 2020.

It is further directed that interim stay against  
appropriation of the amount deposited by the appellant  
would continue till the next date of hearing.

Signature Not Verified  
Digitally signed by  
DEEPAK SINGH  
Date: 2020.06.26  
17:13:06 IST  
Reason:

(ANITA MALHOTRA)  
COURT MASTER

(ANITA RANI AHUJA)  
ASSISTANT REGISTRAR

**TRUE COPY**



**IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI**

**(Special Original Jurisdiction)**

**THURSDAY, THE EIGHTH DAY OF OCTOBER TWO THOUSAND AND TWENTY**

**:PRESENT:**

**THE HON'BLE THE CHIEF JUSTICE SRI JITENDRA KUMAR MAHESHWARI  
AND  
THE HON'BLE SMT JUSTICE LALITHA KANNEGANTI**

**WP (PIL) NO: 112 OF 2020**

**WP (PIL) NO. 112 OF 2020**

**Between:**

TAKEN UP, Poisonous gas leakage in Visakhapatnam

**... Petitioner**

**AND**

1. State Of Andhra Pradesh, Rep. by the Chief Secretary, Secretary, Velagapudi, Amaravati
2. Director General of Police, Andhra Pradesh, Mangalagiri, Guntur District
3. Commissioner of Police, Visakhapatnam City
4. Union of India, Rep by the Secretary, Ministry of Industries, New Delhi
5. Union of India, Rep by the Secretary, Ministry of Environment and Pollution, New Delhi
6. The District Collector, Visakhapatnam District
7. The Superintendent, King George Hospital, Visakhapatnam
8. M/s. LG Polymers Ltd., LG Polymers RD RRV Puram, Naidu Thota, Visakhapatnam, Andhra Pradesh 530029.

**...Respondents**

Writ Petition under Article 226 of the Constitution of India praying to issue a Writ, order or direction, in the nature of Mandamus or any other appropriate writ calling for the records relating to the incident of leakage of poisonous gas from LG Polymers factory at Visakhapatnam at about 2.30 a.m on the intervening night of 06.5.2020/07.05.2020, to direct the Respondents to take all necessary steps for saving the lives of the people in and around the said factory, to provide all necessary medical treatment to the persons who are admitted into various hospitals and to provide necessary facilities to the persons evacuated to safer places and also to issue necessary directions to avoid such incidents in future and to grant other relief/s as the Hon'ble Court may deem fit and proper in the circumstances.

**IA NO: 2 OF 2020**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant leave and permitting the respondent No.8 Company to take out and sell the finished goods / products i.e. 1505.05 MT of Polystyrene, 2621.12 MT of Expandable Polysterene, and 361.193 MT of Engineered Plastics Compound which were manufactured prior to 24.03.2020 and are presently stored in godowns at the Plant.

**IA NO: 3 OF 2020**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to lift the seizure order and direct the State to allow ingress and egress of all personnel including the Directors of the Company into the premises of the Respondent No.8 company including to accompany the Members of various Committees during inspection/enquiries.

**IA NO: 13 OF 2020**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be Pleased to lift the seizure order imposed vide the order dated 22-05-2020 issued by this Hon'ble Court in WP (PIL) No.112 of 2020, WP (PIL) No. 117 of 2020 and WP (PIL) No.119 of 2020.

2

310

The Writ Petitions coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and the order of the High Court order dated 07.05.2020, 22.05.2020, 24.01.2020 & 29.05.2020 made herein and upon hearing the arguments of Sri Y.V. Ravi Prasad, Amicus Curiae, for the petitioner, Sri S.Sriram, Advocate General, for the Respondents Nos. 1, 2, 3, 6 and 7, of Sri Josyula Bhaskar Rao, S.C. for Central Govt., for Respondents No.4 and 5 and of Sri D.Narendra Naik, for Respondent No.8.;

**ORDER:**

(taken up through video conferencing)

Heard on I.A.No.13 of 2020, which is an application filed by respondent No.8 in *taken up* W.P.(PIL) No.112 of 2020, for lifting the seizure order, dated 22.05.2020, passed in *taken up* W.P.(PIL) No.112 of 2020 and W.P.(PIL) Nos.117, 119 and 147 of 2020.

Sri S.Ravi, learned senior counsel, representing Sri D.Narendar Naik, learned counsel, appears on behalf of the applicant, and states that in terms of the averments made in paragraph 4 of the counter-affidavit filed on behalf of respondent Nos.1, 2, 3 and 6 in *taken up* W.P. (PIL) No.112 of 2020, he has filed a memo, dated 28.09.2020, on behalf of the applicant, specifying the names of 16 personnel, who may be permitted the ingress and egress to the applicant premises, particularly, to enter into the Accounts Department. Learned senior counsel accordingly, restricts the prayer made in I.A.No.13 of 2020 to the above extent.

After hearing the learned counsel on either side, and considering the fact that all the records are inside the applicant premises and therefore, the applicant is not in a position either to answer the queries raised by various committees or to file affidavits before various Courts and Tribunals, we permit 16 personnel as specified in the aforesaid memo for their ingress and egress to the applicant premises, particularly, to enter into the Accounts Department.

So far the objection raised by the learned Advocate General representing the State Government regarding watch on those personnel and the safety of the documents in the applicant premises is concerned, video cameras may be fixed by the State Government for that purpose.

In view of the foregoing, the District Collector shall permit the ingress and egress of 16 personnel as specified in the aforesaid memo to the applicant premises, particularly, to

enter into the Accounts Department and he is at liberty to supervise their work confining to the extent stated above, by arranging video cameras. Accordingly, I.A.No.13 of 2020 is ordered.

List this writ petition 'for further orders/final disposal with the consent of the parties, if possible', in the week commencing from 02.11.2020.

Let the relevant reports/documents be supplied to each other by the learned counsel on either side, if not already done, by the next date of listing, facilitating the aggrieved parties to come out with their counter-affidavits/objections, if any.

Sd/- R. KARTHIKEYAN  
ASSISTANT REGISTRAR

//TRUE COPY//

  
For ASSISTANT REGISTRAR

To,

1. The Chief Secretary, State Of Andhra Pradesh, Secretariat, Velagapudi, Amaravati
2. The Director General of Police, Andhra Pradesh, Mangalagiri, Guntur District
3. The Commissioner of Police, Visakhapatnam City
4. The Secretary, Ministry of Industries, Union of India, New Delhi
5. The Secretary, Ministry of Environment and Pollution, Union of India, New Delhi
6. The District Collector, Visakhapatnam District
7. The Superintendent, King George Hospital, Visakhapatnam
8. M/s. LG Polymers Ltd., LG Polymers RD RRV Puram, Naidu Thota, Visakhapatnam, Andhra Pradesh 530029. (1 to 8 by RPAD)
9. One CC to Sri Y.V. Ravi Prasad, Amicus Curiae (by Mail)
10. One CC to Sri Josyula Bhaskar Rao, S.C. for Central Govt., (OPUC)
11. One CC to Sri D.Narendra Naik, Advocate (OPUC)
12. One CC to Sri S.Ravi, Advocate (OPUC)
13. One CC to Sri S.Sriram, Advocate (OPUC)
14. Two CC to the Advocate General, High Court of A.P. [OUT]
15. Two CC to N. Harinath, Assistant Solicitor General (OUT)
16. Two CC to G.P. for Industries & Commerce, High Court of A.P. [OPUC]
17. Two spare copies

SRL

**HIGH COURT**

**HCJ  
&  
LKJ**

**DATED: 08.10.2020**

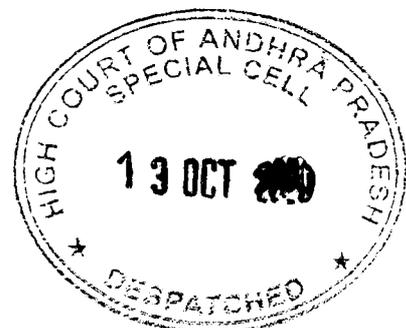
**NOTE : LIST THIS WRIT PETITION 'FOR FURTHER ORDERS/FINAL DISPOSAL WITH THE CONSENT OF THE PARTIES, IF POSSIBLE', IN THE WEEK COMMENCING FROM 02.11.2020.**

**ORDER**

**WP(PIL).NO.112 OF 2020**

**DIRECTION**

**TRUE COPY**



**GOVERNMENT OF ANDHRA PRADESH  
ABSTRACT**

HM & FW Dept. - Containment, Control and Prevention of spread of COVID - 19 - Lock down till 31<sup>st</sup> March, 2020 in the State of Andhra Pradesh - Notification under Epidemic Disease Act, 1897 - Issued

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**HEALTH, MEDICAL & FAMILY WELFARE (B2) DEPARTMENT****G.O.Rt.No.209****Dt: 22.03.2020****Read the following :**

1. G.O.Rt.No.189, HM & FW (B2) Dept. Dt:13.03.2020.
2. G.O.Rt.No.202, HM & FW (B2) Dept. Dt:18.03.2020.
3. G.O.Rt.No.204, HM & FW (B2) Dept. Dt:19.03.2020.

**ORDER :**

The following notification shall be published in the extra ordinary issue of A.P. Gazette.

**NOTIFICATION**

In exercise of the powers contained under Sec 234 of Epidemic Disease Act, 1897, the Governor of Andhra Pradesh hereby issues following measures for containment of COVID-19.

1. WHO has declared COVID19 a global pandemic. Since the onset of preventive measures 11,670 foreign returnees to the state have been placed under medical surveillance. Of these 10,091 are placed under home isolation, 24 are hospitalized and 1,555 have completed home isolation of 28 days. So far 6 cases have tested positive, one each in districts of Nellore, East Godavari, Krishna, Prakasam and 2 in Visakhapatnam.

2. While, vide GO Rt.No. 202 and GO Rt. No. 204 multiple restriction and social distancing measures have been communicated, it is imperative that in proactive manner a state-wide lockdown is observed to prevent onset of community transmission of the Corona-virus. Therefore, in continuation to the measures enunciated in GOs cited above the following measures to ensure that such a lockdown will come into force with immediate effect across the state of Andhra Pradesh up to 31<sup>st</sup> March 2020:

- i. No public transport including inter-state transport services shall be permitted. The exception will include transport of all kinds to and fro from hospitals, airports & railway stations etc.
- ii. All non-essential commercial shops shall be shut down.
- iii. All non-essential offices, factories, workshops, go-downs etc. if operated should do so with skeletal staff.
- iv. All foreign returnees are directed to remain under strict home quarantine for a period of 14 days or as advocated by local Health Authorities (Collectors to monitor and update on online portal).
- v. Police will ensure Beat Vigilance System regarding all foreign returnees across the state. For this, police should take help of MahilaSamrakshna Karyadarshi (mahila police).
- vi. General public are required to stay at home and come out only for basic services while strictly following social distancing (2m distance between individuals) guidelines issued earlier.
- vii. Any congregation of more than 10 persons is prohibited in public places.
- viii. A 100 bedded Quarantine / Isolation facility should be established at each assembly constituency level.

:2:

- ix. Each district headquarters shall have 200-300 bed Tertiary Care Treatment facility dedicated for COVID-19 treatment in coordination with private sector.
- x. Collectors will maintain strict vigilance on essential commodities and medicines. Clear advertisements regarding rates & stocking in this regard shall be communicated and any violation by individuals/establishments shall be dealt strictly under relevant provisions of the IPC. A toll free number should be set up by District Collectors for complaints in this regard
- xi. Farmers and individuals involved in production of food grains/essential commodities will be allowed to take up their activities by maintaining social distancing norms.

3. However, the following establishments providing essential services shall be excluded from the above restrictions:

- a. Offices charged with law and order and magisterial duties
  - i. Collector
  - ii. Joint Collector
  - iii. Sub Collector / RDO
  - iii. MRO
- b. Police, Health, Urban Local Bodies, Fire, Electricity, Water and Municipal Services, Bank/ATM, Print, Electronic and Social Media.
- c. Food, Groceries, Milk, Bread, Fruit, Vegetable, Meat, Fish and their transportation related activities and warehousing.
- d. Hospitals, Pharmacies, Optical stores, Pharmaceuticals manufacturing and their transportation related activities
- e. Telecom & Internet Services including IT&ITeS, Postal services
- f. Supply chain and related transportation of essential goods
- g. e-Commerce (delivery) of all essential goods including food, pharmaceutical and medical equipment
- h. Take away/ home delivery restaurants and hotels.
- i. Petrol pumps, LPG gas, Oil agencies, their go-downs and transportation related activities.
- j. Production and Manufacturing Units which require continuous process may continue to function, after obtaining required permission from the Collector.
- k. Manufacturing units engaged in production of essential commodities
- l. Private establishments that support the above services or are linked to the efforts for containment of COVID-19 will remain open.

4. District Collector shall be the competent authority to decide if any produce / service is essential in nature or not.

5. District Administration should appeal to general public to ensure observance of social distancing norms in public places and appropriate sanitary / distancing measures in private sphere. This appeal should lay special focus on the elderly (above 60 yrs) and those with flu like symptoms, medical complications like asthma, BP, cardio vascular complications etc.

6. While the lockdown as enunciated above should be initiated with immediate effect, the district administration should continue to focus on the containment strategy being practised thus far involving tracking the dissemination of a disease within a community through tracking of foreign returnees / suspect cases, and then using isolation and individual quarantines to keep people who have been infected by or exposed to the disease from spreading it.

:3:

7. District Collectors, Joint Collectors, Police Commissioners, SPs, Municipal Commissioners, Sub Collectors, RDOs, DM&HOs, Tahsildars and MPDOs are hereby authorized to take all necessary actions for enforcement and implementation of the aforesaid measures. Local police shall render necessary assistance as and when requisitioned by the aforementioned officers.

8. Any person found violating the containment measures; shall deemed to have committed an offence punishable under section 188 of Indian Penal Code (45 of 1860). Strict compliance with aforementioned measures is warranted.

**(BY ORDER AND IN THE NAME OF GOVERNOR OF ANDHRA PRADESH)**

**NILAM SAWHNEY  
CHIEF SECRETARY TO GOVERNMENT**

To

The Commissioner, Printing, Stationery & Purchase, Vijayawada (with a request to publish the notification in extraordinary Gazette)

All the District Collectors in the State.

All the Municipal Commissioners in the State.

The Principal Secretary, T.R. & B., Secretariat. } with a request

The Spl, Chief Secy., Revenue (CT&Excise) Dept. } to issue further

The Principal Secretary, Home Dept. } guidelines to

The Principal Secretary, Revenue Dept. } operationalize

The Principal Secretary, L.E.T. & F. Dept., Secretariat } the instructions

The Principal Secretary, PR&RD Dept. } issued in the G.O.

The Principal Secretary, I&I Dept. }

The Principal Secretary, MA&UD Dept. }

The Director General of Police, Mangalagiri. }

The Commissioner, I&PR Dept. }

All District Superintendents of Police in the State of A.P.

The Commissioner of Police, Visakhapatnam, Vijayawada.

The Commissioner of Public Transport Department.

All HODs of H.M. & F.W. Dept.

**Copy to:**

OSD to Dy.CM (HFW & ME)

PS to CS/ PS to Addl.C.S. to CM

PS to Principal Secretary (Poll), GAD PS

to Commissioner, I & P.R.

**//FORWARDED:: BY ORDER//**

**SECTION OFFICER**

**TRUE COPY**



## ANNEXURE - P

**SolutionPartner**

### LG Polymers India Pvt. Ltd.

Regd. Office & Works : R.R. Venkatapuram, Visakhapatnam - 530 029, India  
CORPORATE IDENTITY NUMBER (CIN) : U25203AP1996PTC025917

ISO 9001:2015 &  
ISO 14001:2015  
BUREAU VERITAS  
Certification



Visakhapatnam	91-891-2520455 ~ 458, Fax : 91-891-2520528
Mumbai	91-22-61085300 ~ 332, Fax : 91 - 22-61085344
Gurgaon	91-0124-4692700 ~ 11, Fax : 91-0124-4692701
Kolkata	91-33-25797977 & 78
Chennai	91-44-26650201 Fax : 91-44-43870203
Vijayawada	91-9849170565
Pune	91-020-66487600

Ref: LGPI/03/2020

Date: 23.03.2020

#### The District Collector & Magistrate Visakhapatnam

Respected Sir,

Sub: Request permission for Operating our Manufacturing Industry - Reg  
Ref: Government of AP G.O.Rt.No. dt. 22.03.2020

We, LG Polymers India Pvt. Limited, situated in RR Venkatapuram (near Gopalapatnam), Visakhapatnam is a South Korean MNC Company. We manufacture Polystyrene & expandable polystyrene using the main raw material Styrene Monomer (SM) which is imported from south East Asian countries. We employ about 500 employees both permanent & contract workers.

Ours is a petrochemical plant classified under MAH category, continuous polymerization of styrene monomer, operating on 24 X 7 basis under A, B, C & General shifts.

Imported styrene monomer (thru' Visakhapatnam port) is stored in leased transit terminal at M/s. East India Petroleum Ltd.(EIPL) Visakhapatnam. We regularly transfer SM to our plant thru' road tankers and currently we are having around 7000 MT of SM at EIPL which need to be shifted to plant location considering the hazardous nature of the chemical (stagnation of SM leads to auto-polymerization / explosion).

Hence we request your good offices to permit us to continue plant operations in view of the nature of the industry.

Sir, we humbly request you to give permission to our Industry to enable us to run the operations with skeletal staff (about 70% reduction) considering the nature of polymer industry.

However, we assure you that we have taken all necessary precautions to maintain social distance, disinfecting our premises following the guidelines issued by the govt. We established the practice of monitoring the health condition of all our employees at the entrance of the factory gate.

We request your kind permission.

Thanking you,

Your faithfully,  
For LG Polymers India Pvt. Limited

**P.P.C. Mohan Rao**  
Director (Operations)

**TRUE COPY**

**ANNEXURE - Q**

**No. 40-3/2020-DM-I(A)  
Government of India  
Ministry of Home Affairs**

North Block, New Delhi-110001

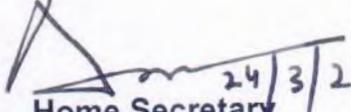
Dated 24<sup>th</sup> March, 2020

**ORDER**

Whereas, the National Disaster Management Authority (NDMA), is satisfied that the country is threatened with the spread of COVID-19 epidemic, which has already been declared as a pandemic by the World Health Organisation, and has considered it necessary to take effective measures to prevent its spread across the country and that there is a need for consistency in the application and implementation of various measures across the country while ensuring maintenance of essential services and supplies, including health infrastructure;

Whereas in exercise of the powers under section 6(2)(i) of the Disaster Management Act, 2005, the National Disaster Management Authority (NDMA), has issued an Order no. 1-29/2020-PP (Pt.II) dated 24.03.2020 (Copy enclosed) directing the Ministries/ Departments of Government of India, State/Union Territory Governments and State/ Union Territory Authorities to take effective measures so as to prevent the spread of COVID-19 in the country;

Whereas under directions of the aforesaid Order of NDMA, and in exercise of the powers, conferred under Section 10(2)(I) of the Disaster Management Act, the undersigned, in his capacity as Chairperson, National Executive Committee, hereby issues guidelines, as per the Annexure, to Ministries/ Departments of Government of India, State/Union Territory Governments and State/ Union Territory Authorities with the directions for their strict implementation. This Order shall remain in force, in all parts of the country for a period of 21 days with effect from 25.03.2020.

  
24/3/2020  
Home Secretary

To

- 1. The Secretaries of Ministries/ Departments of Government of India**
- 2. The Chief Secretaries/Administrators of States/Union Territories**  
(As per list attached)

Copy to:

- i. All members of the National Executive Committee.
- ii. Member Secretary, National Disaster Management Authority.

**Annexure to Ministry of Home Affairs Order No .40-3/2020-D dated ( )24.03.2020****Guidelines on the measures to be taken by Ministries/ Departments of Government of India, State/Union Territory Governments and State/ Union Territory Authorities for containment of COVID-19 Epidemic in the Country.**

1. Offices of the Government of India, its Autonomous/ Subordinate Offices and Public Corporations shall remain closed.

*Exceptions:*

Defence, central armed police forces, treasury, public utilities (including petroleum, CNG, LPG, PNG), disaster management, power generation and transmission units, post offices, National Informatics Centre, Early Warning Agencies

2. Offices of the State/ Union Territory Governments, their Autonomous Bodies, Corporations, etc. shall remain closed.

*Exceptions:*

- a. Police, home guards, civil defence, fire and emergency services, disaster management, and prisons.
- b. District administration and Treasury
- c. Electricity, water, sanitation
- d. Municipal bodies—Only staff required for essential services like sanitation, personnel related to water supply etc

*The above offices (Sl. No 1 & 2) should work with minimum number of employees. All other offices may continue to work-from-home only.*

3. Hospitals and all related medical establishments, including their manufacturing and distribution units, both in public and private sector, such as dispensaries, chemist and medical equipment shops, laboratories, clinics, nursing homes, ambulance etc. will continue to remain functional. The transportation for all medical personnel, nurses, para-medical staff, other hospital support services be permitted.

4. Commercial and private establishments shall be closed down.

*Exceptions:*

- a. Shops, including ration shops (under PDS), dealing with food, groceries, fruits and vegetables, dairy and milk booths, meat and fish, animal fodder. However, district authorities may encourage and facilitate home delivery to minimize the movement of individuals outside their homes.
- b. Banks, insurance offices, and ATMs.
- c. Print and electronic media
- d. Telecommunications, internet services, broadcasting and cable services. IT and IT enabled Services only (for essential services) and as far as possible to work from home.
- e. Delivery of all essential goods including food, pharmaceuticals, medical equipment through E-commerce.

- f. Petrol pumps, LPG, Petroleum and gas retail and storage outlets.
- g. Power generation, transmission and distribution units and services.
- h. Capital and debt market services as notified by the Securities and Exchange Board of India
- i. Cold storage and warehousing services.
- j. Private security services

All other establishments may work-from-home only.

5. Industrial Establishments will remain closed.

Exceptions:

- a. Manufacturing units of essential commodities.
- b. Production units, which require continuous process, after obtaining required permission from the State Government

6. All transport services – air, rail, roadways – will remain suspended.

Exceptions:

- a. Transportation for essential goods only.
- b. Fire, law and order and emergency services.

7. Hospitality Services to remain suspended

Exceptions:

- a. Hotels, homestays, lodges and motels, which are accommodating tourists and persons stranded due to lockdown, medical and emergency staff, air and sea crew.
- b. Establishments used/ earmarked for quarantine facilities.

8. All educational, training, research, coaching institutions etc. shall remain closed.

9. All places of worship shall be closed for public. No religious congregations will be permitted, without any exception.

10. All social/ political/ sports/ entertainment/ academic/ cultural/ religious functions / gatherings shall be barred.

11. In case of funerals, congregation of not more than twenty persons will be permitted.

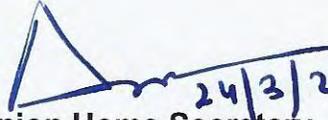
12. All persons who have arrived into India after 15.02.2020, and all such persons who have been directed by health care personnel to remain under strict home/ institutional quarantine for a period as decided by local Health Authorities, failing which they will be liable to legal action under Sec. 188 of the IPC.

13. Wherever exceptions to above containment measures have been allowed, the organisations/employers must ensure necessary precautions against COVID-19



virus, as well as social distance measures, as advised by the Health Department from time to time.

14. In order to implement these containment measures, the District Magistrate will deploy Executive Magistrates as Incident Commanders in the respective local jurisdictions. The Incident Commander will be responsible for the overall implementation of these measures in their respective jurisdictions. All other line department officials in the specified area will work under the directions of such incident commander. The Incident Commander will issue passes for enabling essential movements as explained.
15. All enforcing authorities to note that these strict restrictions fundamentally relate to movement of people, but not to that of essential goods.
16. The Incident Commanders will in particular ensure that all efforts for mobilisation of resources, workers and material for augmentation and expansion of hospital infrastructure shall continue without any hindrance.
17. Any person violating these containment measures will be liable to be proceeded against as per the provisions of Section 51 to 60 of the Disaster Management Act, 2005, besides legal action under Sec. 188 of the IPC (as per Appendix).
18. The above containment measures will remain in force, in all parts of the country, for a period of 21 days with effect from 25.03.2020.

  
24/3/2020  
Union Home Secretary

**1. Section 51 to 60 of the Disaster Management Act, 2005**

## OFFENCES AND PENALTIES

**51. Punishment for obstruction, etc.**—Whoever, without reasonable cause —

(a) obstructs any officer or employee of the Central Government or the State Government, or a person authorised by the National Authority or State Authority or District Authority in the discharge of his functions under this Act; or

(b) refuses to comply with any direction given by or on behalf of the Central Government or the State Government or the National Executive Committee or the State Executive Committee or the District Authority under this Act,

shall on conviction be punishable with imprisonment for a term which may extend to one year or with fine, or with both, and if such obstruction or refusal to comply with directions results in loss of lives or imminent danger thereof, shall on conviction be punishable with imprisonment for a term which may extend to two years.

**52. Punishment for false claim.**—Whoever knowingly makes a claim which he knows or has reason to believe to be false for obtaining any relief, assistance, repair, reconstruction or other benefits consequent to disaster from any officer of the Central Government, the State Government, the National Authority, the State Authority or the District Authority, shall, on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.

**53. Punishment for misappropriation of money or materials, etc.**—Whoever, being entrusted with any money or materials, or otherwise being, in custody of, or dominion over, any money or goods, meant for providing relief in any threatening disaster situation or disaster, misappropriates or appropriates for his own use or disposes of such money or materials or any part thereof or wilfully compels any other person so to do, shall on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.

**54. Punishment for false warning.**—Whoever makes or circulates a false alarm or warning as to disaster or its severity or magnitude, leading to panic, shall on conviction, be punishable with imprisonment which may extend to one year or with fine.

**55. Offences by Departments of the Government.**—(1) Where an offence under this Act has been committed by any Department of the Government, the head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of the Government and it is proved that the

offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the head of the Department, such officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**56. Failure of officer in duty or his connivance at the contravention of the provisions of this Act.**—Any officer, on whom any duty has been imposed by or under this Act and who ceases or refuses to perform or withdraws himself from the duties of his office shall, unless he has obtained the express written permission of his official superior or has other lawful excuse for so doing, be punishable with imprisonment for a term which may extend to one year or with fine.

**57. Penalty for contravention of any order regarding requisitioning.**—If any person contravenes any order made under section 65, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

**58. Offence by companies.**—(1) Where an offence under this Act has been committed by a company or body corporate, every person who at the time the offence was committed, was in charge of, and was responsible to, the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly: Provided that nothing in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence was committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also, be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purpose of this section— (a) “company” means any body corporate and includes a firm or other association of individuals; and (b) “director”, in relation to a firm, means a partner in the firm.

**59. Previous sanction for prosecution.**—No prosecution for offences punishable under sections 55 and 56 shall be instituted except with the previous sanction of the Central Government or the State Government, as the case may be, or of any officer authorised in this behalf, by general or special order, by such Government.

**60. Cognizance of offences.**—No court shall take cognizance of an offence under this Act except on a complaint made by— (a) the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised in this behalf by that Authority or Government, as the case may be; or (b) any person who has given notice of not less than thirty days in the manner prescribed, of the alleged offence and his intention to make a complaint to

the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised as aforesaid.

## **2. Section 188 in The Indian Penal Code**

188. Disobedience to order duly promulgated by public servant.—Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both; and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

*Explanation.*—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

### *Illustration*

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this section.

**TRUE COPY**



## LG Polymers India Pvt. Ltd.

Regd. Office & Works : R.R. Venkatapuram, Visakhapatnam - 530 029, India

CORPORATE IDENTITY NUMBER (CIN) : U25203AP1996PTC025917

## ANNEXURE - R

SolutionPartner

ISO 9001:2015 A  
ISO 14001:2015

BUREAU VERITAS  
Certification



Visakhapatnam	91-891-2520455 ~ 458	Fax : 91-891-2520528
Mumbai	91-22-61085300 ~ 332	Fax : 91 - 22-61085344
Gurgaon	91-0124-4692700 ~ 11	Fax : 91-0124-4692701
Kolkata	91-33-25797977 & 78	
Chennai	91-44-26650201	Fax : 91-44-43870203
Vijayawada	91-9849170565	
Pune	91-020-66487600	

Ref: LGPI/03/2020

Date: 28.03.2020

The Joint Collector  
Collector Office  
Visakhapatnam

Respected Sir,

**Sub: Request Emergency Duty Identity Cards for the skeletal staff - Reg**

Ref: 1) Government of AP G.O.Rt.No. dt. 22.03.2020  
2) LGPI letter to District Collector dt.23.03.2020

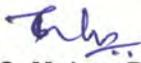
We, LG Polymers India Pvt. Limited, situated in RR Venkatapuram, Visakhapatnam is a South Korean MNC Company. We manufacture Polystyrene & expandable polystyrene using the main raw material Styrene Monomer (SM) which is imported from South East Asian countries. Ours is a petrochemical plant classified under MAH category, continuous polymerization of SM. We employ about 500 employees both permanent & contract workers.

Based on District Collector orders dt. 23<sup>rd</sup> March,20 we have stopped / shutdown our continuous process plants on 23<sup>rd</sup> / 24<sup>th</sup> March. However we have to closely monitor the raw materials SM, Pentane (hazardous and classified as Class A & B petroleum products) stored in the tank farm. Hence we have deployed skeletal manpower 60 persons to monitor the raw material inventories round the clock as the above raw materials are to be maintained in refrigerated condition (as per MSDS - Material Safety Data Sheet).

Hence, we humbly request your good offices to **grant Emergency Duty permission passes** to deploy 60 skeletal staff for monitoring the raw materials. We humbly request you to consider our request in view of the raw material safety.

Thanking you,

Your faithfully,  
For LG Polymers India Pvt. Limited

  
P.P.C. Mohan Rao  
Director (Operations)

CC TO: GM - Industries

**TRUE COPY**

**ORDER**

Whereas under directions of the National Disaster Management Authority (NDMA), guidelines on lockdown measures to contain the spread of COVID-19 in all parts of the country were issued vide Order of even number dated 24.03.2020 under the Disaster Management Act 2005 for a period of 21 days with effect from 25.03.2020. Under further directions of NDMA, the lockdown period was extended upto 03.05.2020 vide Order of even number dated 14.04.2020 and consolidated revised guidelines were issued vide Order of even number dated 15.04.2020;

Whereas in exercise of the powers under section 6(2)(i) of the Disaster Management Act, 2005, NDMA has issued an Order number 1-29/2020-PP dated 01.05.2020 directing the Chairperson, NEC that lockdown measures be continued to be implemented in all parts of the Country, for a further period of two weeks with effect from 04.05.2020;

Whereas under directions of the aforesaid Order of NDMA dated 01.05.2020, and in exercise of the powers, conferred under Section 10(2)(l) of the Disaster Management Act, 2005, the undersigned, in his capacity as Chairperson, NEC, hereby issues directions to all the Ministries/ Departments of Government of India, State/Union Territory Governments and State/Union Territory Authorities that the lockdown period is extended for a further period of two weeks with effect from 04.05.2020;

Whereas, in exercise of the powers, conferred under Section 10(2)(l) of the Disaster Management Act, 2005, the undersigned, in his capacity as Chairperson, NEC, hereby issues new guidelines on lockdown measures, as annexed, which will come into effect from 04.05.2020 for a period of two weeks, for strict implementation.

  
Union Home Secretary

**To:**

1. The Secretaries of Ministries/ Departments of Government of India
2. The Chief Secretaries/Administrators of States/Union Territories  
(As per list attached)

**Copy to:**

- i. All members of the National Executive Committee.
- ii. Member Secretary, National Disaster Management Authority.

**New Guidelines on the measures to be taken by Ministries/ Departments of Government of India, State/ UT Governments and State/ UT authorities for containment of COVID-19 in the country for the extended period of National Lockdown for a further period of two weeks with effect from 4<sup>th</sup> May, 2020.**

**[As per Ministry of Home Affairs (MHA) Order No. 40-3/2020-DM-I (A) dated 1<sup>st</sup> May, 2020]**

1. With the extension of the Lockdown period for a further period of two weeks with effect from 4<sup>th</sup> May 2020, new guidelines, as under, will be applicable based on the risk profiling of the districts into Red (Hotspot), Green and Orange zones.
2. **Identification of Red (Hotspots), Green and Orange Zones**
  - i. Based on their risk profile, the criteria for dividing the districts of the country into three zones, viz., **green, red and orange**, will be as follows:
    - a. **Green Zones:** Green Zones shall be defined as per the following criteria: districts with zero confirmed case till date; or, districts with no confirmed case in the last 21 days.
    - b. **Red Zones or Hotspot Districts:** Districts shall be defined as Red Zones or Hotspot districts, by Ministry of Health and Family Welfare (MoHFW), Government of India (GoI), taking into account total number of active cases, doubling rate of confirmed cases, extent of testing and surveillance feedback.
    - c. **Orange Zones:** Districts, which are neither defined as Red nor as Green Zones, shall be Orange Zones.
  - ii. MoHFW will share the list of Red Zone (Hotspot), Orange Zone and Green Zone districts and related information with State/ UTs on a weekly basis or earlier as required. States/ UTs, on review, may consider inclusion of **additional districts** as Red Zone (Hotspots) and Orange Zone districts depending on the extent of spread of COVID-19 infection. **However, States and UTs may not lower the classification of any district, that is included in the list of Red Zone (Hotspots) and Orange Zone districts by MoHFW.**
  - iii. Districts classified either as Red or Orange Zones, may have one or more Municipal Corporation (MC) areas. In such cases, States/ UTs and District administrations may make an assessment of the distribution of cases - within the jurisdiction of the MC(s); and the area falling outside the MC(s) boundaries. In such cases, the classification of zones shall be as follows:
    - a. In case the district is classified as a Red Zone, and, there is no confirmed case in the last 21 days in the area of the district outside the limits of the MC(s), this area may be labeled as an Orange Zone. However, due caution may be exercised in such areas so that they remain free from COVID-19 cases.
    - b. In case the district is classified as an Orange Zone, and, there is no confirmed case in the last 21 days in the area of the district outside the limits of the MC(s), this area may be labeled as a Green Zone. However, due caution may be exercised in such areas so that they remain free from COVID-19 cases.
    - c. In case in the area of the district outside the limits of the MC (s) does have one or more confirmed case(s) in the last 21 days, this part of the

district shall continue to be labeled as a Red or Orange Zone, as per the classification of the district.

- d. While assessing the classification of a zone, cases should be registered in the zone where the case originates, rather than where it is treated.

### 3. Identification of Containment Zones

- i. Containment Zones shall be demarcated within **Red (Hotspots) and Orange Zones** by States/ UTs and District Administrations based on the guidelines of MoHFW. The boundary of the Containment Zone shall be defined by District Administrations taking into account the following factors: mapping of cases and contacts; geographical dispersion of cases and contacts; area with well demarcated perimeter; and enforceability.
- ii. The boundary of the Containment Zone will be a residential colony, *mohalla*, municipal ward, municipal zone, Police Station area, towns etc., in case of urban areas; and, a village, cluster of villages, Gram Panchayats, group of Police Stations, blocks etc., in case of rural areas.

#### Protocol within Containment Zones:

- iii. Intensive surveillance mechanism as outlined in the Standard Operating Protocol (SOP) issued by MoHFW is to be established within the Containment Zone. **The local authority shall ensure 100% coverage of Aarogya Setu app among the residents of Containment Zones.**
- iv. In the Containment Zone, following activities shall be undertaken by the local authorities:
- a. Contact Tracing.
  - b. Home or Institutional quarantining of individuals based on risk assessment by medical officers. This risk assessment will be based on symptoms, contact with confirmed cases, and travel history.
  - c. Testing of all cases with Severe Acute Respiratory Infection (SARI), Influenza Like Illness (ILI) and other symptoms specified by MOHFW.
  - d. House to house surveillance by special teams constituted for this purpose.
  - e. Clinical management of all cases as per protocol.
  - f. Counselling and educating people; and establishing effective communication strategies.
- v. In these **Containment Zones**, within Red (Hotspots) and Orange Zones, **where maximum precaution is required**, there shall be strict perimeter control to ensure that there is no movement of population in or out of these zones except for medical emergencies and for maintaining supply of essential goods and services. The guidelines issued in this regard by MoHFW will be strictly implemented by State/ UT Governments and the local district authorities.
- ### 4. The following activities will continue to remain prohibited across the country, irrespective of the Zone, for a period of two weeks with effect from 4<sup>th</sup> May, 2020:
- i. All domestic and international air travel of passengers, except for medical services, air ambulance and for security purposes or for purposes as permitted by MHA.
  - ii. All passenger movement by trains, except for security purposes or for purposes as permitted by MHA.

- iii. Inter-State Buses for public transport, except as permitted by MHA.
  - iv. Metro rail services.
  - v. Inter-State movement of individuals except for medical reasons or for activities as permitted by MHA.
  - vi. All schools, colleges, educational/ training/ coaching institutions etc. However, online/ distance learning shall be permitted.
  - vii. Hospitality services other than those used for housing health/ police/ Government officials/ healthcare workers, stranded persons including tourists, and those used for quarantine facilities.
  - viii. All cinema halls, shopping malls, gymnasiums, sports complexes, swimming pools, entertainment parks, theatres, bars and auditoriums, assembly halls and similar places.
  - ix. All social/ political/ sports/ entertainment/ academic/ cultural/ religious functions/ other gatherings.
  - x. All religious places/ places of worship shall be closed for public. Religious congregations are strictly prohibited.
- 5. Measures for well being and safety of persons**
- i. The movement of individuals, for all non-essential activities, shall remain strictly prohibited between 7 pm to 7 am. Local authorities shall issue orders under appropriate provisions of law, such as prohibitory orders [curfew] under Section 144 of CrPC, for this purpose, and ensure strict compliance.
  - ii. In all zones, persons above 65 years of age, persons with co-morbidities, pregnant women, and children below the age of 10 years, shall stay at home, except for meeting essential requirements and for health purposes, as per the National Directives.
  - iii. In Containment Zones, Out-Patient Departments (OPDs) and Medical clinics shall not be permitted to operate. However, these may be permitted to operate in Red, Orange and Green Zones, with social distancing norms and other safety precautions.
- 6. Activities in Containment Zones**
- i. Strict perimeter control.
  - ii. Establishment of clear entry and exit points.
  - iii. Movement of persons only for maintaining supply of goods and services; and for medical emergencies.
  - iv. No unchecked influx of people and transport.
  - v. Recording of details of people moving in and out of perimeter.
- 7. Activities in Red Zones (Hotspots) [Outside Containment Zones]**
- i. Apart from the prohibited activities mentioned at Para 4, the following activities shall **not** be permitted:
    - a. Cycle rickshaws and auto rickshaws.
    - b. Taxis and cab aggregators.
    - c. Intra-district and inter-district plying of buses.
    - d. Barber shops, spas and salons.
  - ii. The following activities shall be permitted with **restrictions** as specified:
    - a. Movement of individuals and vehicles, only for permitted activities. Four wheeler vehicles will have maximum two passengers besides the vehicle driver; for two wheelers, pillion rider is not allowed.

- b. Industrial establishments in urban areas: Only Special Economic Zones (SEZs), Export Oriented Units (EOUs), industrial estates and industrial townships with access control; Manufacturing units of essential goods, including drugs, pharmaceuticals, medical devices, their raw material and intermediates; Production units, which require continuous process, and their supply chain; Manufacturing of IT hardware; Jute industry with staggered shifts and social distancing; and, Manufacturing units of packaging material are permitted.

All industrial activities are permitted in rural areas.

- c. Construction activities in urban areas: Only in situ construction (where workers are available on site and no workers are required to be brought in from outside) and construction of renewable energy projects are permitted.

All construction activities are permitted in rural areas.

- d. All malls, market complexes and markets shall remain closed in urban areas, i.e., areas within the limits of municipal corporations and municipalities. However, shops selling essential goods in markets and market complexes are permitted.

All standalone (single) shops, neighborhood (colony) shops and shops in residential complexes are permitted to remain open in urban areas, without any distinction of essential and non-essential.

All shops in rural areas, except in malls, are permitted to remain open, without any distinction of essential and non-essential.

Social distancing (*2 Gaz ki doori*) will be maintained in all cases.

- e. E-commerce activities will be permitted only in respect of essential goods.
- f. Private offices can operate with upto 33% strength as per requirement, with the remaining persons working from home.
- g. All Government offices shall function with officers of the level of Deputy Secretary and above to the extent of 100% strength. The remaining staff will attend upto 33% as per requirement. However, Defense and Security services, Health and Family Welfare, Police, Prisons, Home Guards, Civil Defence, Fire and Emergency Services, Disaster management and related services, NIC, Customs, FCI, NCC, NYK and Municipal services shall function without any restrictions; delivery of public services shall be ensured and necessary staff will be deployed for such purpose.

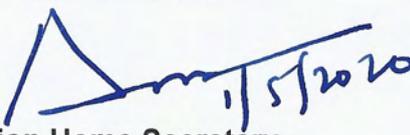
#### 8. **Activities in Orange Zones [Outside Containment Zones]**

- i. Apart from the prohibited activities mentioned at Para 4, the following activities shall **not** be permitted:
- a. Inter-district and Intra-district plying of buses.
- ii. The following activities shall be permitted with **restrictions** as are specified:
- a. Taxis and cab aggregators, with 1 driver and 2 passengers only.
  - b. Inter-district movement of individuals and vehicles, only for permitted activities. Four wheeler vehicles will have maximum two passengers besides the driver.

- 9. Activities in Green Zones**
- i. All activities are permitted in Green Zones, except those activities that are prohibited under Para 4.
  - ii. Buses can operate with upto 50% seating capacity.
  - iii. Bus depots can operate with upto 50% capacity.
- 10. All other activities will be permitted activities, which are not specifically prohibited/ permitted with restrictions in the various Zones, under these guidelines. However, States/ UTs, based on their assessment of the situation, and with the primary objective of keeping the spread of COVID-19 in check, may allow only select activities from out of the permitted activities, with such restrictions as felt necessary.**
- 11.** All States/ UTs shall allow inter-state movement of goods/ cargo, including empty trucks.
- 12.** No State/ UT shall stop the movement of cargo for cross land-border trade under Treaties with neighbouring countries.
- 13.** No separate/ fresh permissions are required from authorities for activities already permitted to operate under the guidelines on Lockdown measures up to May 3, 2020. The following Standard Operating Protocols (SOPs) issued by MHA will continue to operate:
- i. SOP on transit arrangement for foreign national(s) in India and release of quarantine persons, issued vide Order dated April 02, 2020.
  - ii. SOP on movement of stranded labour within States/ UTs, issued vide Order dated April 19, 2020.
  - iii. SOP on sign-on and sign-off of Indian seafarers, issued vide Order dated April 21, 2020.
  - iv. SOP on movement of stranded migrant workers, pilgrims, tourists, students and other persons, issued vide Order dated April 29, 2020.
  - v. SOP on movement of stranded migrant workers, pilgrims, tourists, students and other persons by train, issued vide Order dated May 01, 2020.
- 14. Strict enforcement of the lockdown guidelines**  
State/ UT Governments shall not dilute these guidelines issued under the Disaster Management Act, 2005, in any manner, and shall strictly enforce the same.
- 15. Instructions for enforcement of above lockdown measures:**
- i. All the district magistrates shall strictly enforce the above lockdown measures and the National Directives for COVID 19 Management, for public and work places, as specified in **Annexure I**.
  - ii. In order to implement these containment measures, the District Magistrate will deploy Executive Magistrates as Incident Commanders in the respective local jurisdictions. The Incident Commander will be responsible for the overall implementation of these measures in their respective jurisdictions. All other line department officials in the specified area will work under the directions of such Incident Commander. The Incident Commander will issue passes for enabling essential movements as explained.
  - iii. The Incident Commanders will in particular ensure that all efforts for mobilization of resources, workers and material for augmentation and expansion of hospital infrastructure shall continue without any hindrance.

**16. Penal provisions**

Any person violating these lockdown measures and the National Directives for COVID-19 Management will be liable to be proceeded against as per the provisions of Section 51 to 60 of the Disaster Management Act, 2005, besides legal action under Sec. 188 of the IPC, and other legal provisions as applicable. Extracts of these penal provisions are at **Annexure II**.



Union Home Secretary

**National Directives for COVID-19 Management****PUBLIC PLACES**

1. Wearing of face cover is compulsory in all public places.
2. All persons in charge of public places and transport shall ensure social distancing as per the guidelines issued by Ministry of Health and Family Welfare.
3. No organization/ manager of public place shall allow gathering of 5 or more persons.
4. Marriages related gatherings shall ensure social distancing, and the maximum number of guests allowed shall not be more than 50.
5. Funeral/ last rites related gatherings shall ensure social distancing, and the maximum numbers allowed shall not be more than 20.
6. Spitting in public places shall be punishable with fine, as may be prescribed by the State/ UT local authority.
7. Consumption of liquor, *paan*, *gutka*, tobacco etc. in public places is not allowed.
8. Shops selling liquor, *paan*, *gutka*, tobacco etc. will ensure minimum six feet distance (*2 gaz ki doori*) from each other, and also ensure that not more than 5 persons are present at one time at the shop.

**WORK PLACES**

9. Wearing of face cover is compulsory in all work places and adequate stock of such face covers shall be made available.
10. All persons in charge of work places shall ensure social distancing as per the guidelines issued by Ministry of Health and Family Welfare, both within the work places and in company transport.
11. Social distancing at work places shall be ensured through adequate gaps between shifts, staggering the lunch breaks of staff, etc.
12. Provision for thermal scanning, hand wash and sanitizer preferably with touch free mechanism will be made at all entry and exit points and common areas. In addition, sufficient quantities of handwash and sanitizer shall be made available in the work places.
13. Frequent sanitization of entire workplace, common facilities and all points which come into human contact e.g. door handles etc., shall be ensured, including between shifts.
14. Persons above 65 years of age, persons with co-morbidities, pregnant women and children below the age of 10 years shall stay at home, except for meeting essential requirements and for health purposes.
15. Use of *Arogya Setu* app shall be made mandatory for all employees, both private and public. It shall be the responsibility of the Head of the respective Organizations to ensure 100% coverage of this app among the employees.
16. Large physical meetings to be avoided.
17. Hospitals/ clinics in the nearby areas, which are authorized to treat COVID-19 patients, should be identified and list should be available at work place all the times. Employees showing any symptom of COVID-19 should be immediately sent for check up to such facilities. Quarantine areas should be earmarked for isolating employees showing symptoms till they are safely moved to the medical facilities.

18. Arrangements for transport facilities shall be ensured with social distancing, wherever personal/ public transport is not feasible.
  19. Intensive communication and training on good hygiene practices shall be taken up.
- 



**Offences and Penalties for Violation of Lockdown Measures****A. Section 51 to 60 of the Disaster Management Act, 2005**

**51. Punishment for obstruction, etc.**—Whoever, without reasonable cause

- (a) obstructs any officer or employee of the Central Government or the State Government, or a person authorised by the National Authority or State Authority or District Authority in the discharge of his functions under this Act; or
- (b) refuses to comply with any direction given by or on behalf of the Central Government or the State Government or the National Executive Committee or the State Executive Committee or the District Authority under this Act,

shall on conviction be punishable with imprisonment for a term which may extend to one year or with fine, or with both, and if such obstruction or refusal to comply with directions results in loss of lives or imminent danger thereof, shall on conviction be punishable with imprisonment for a term which may extend to two years.

**52. Punishment for false claim.**—Whoever knowingly makes a claim which he knows or has reason to believe to be false for obtaining any relief, assistance, repair, reconstruction or other benefits consequent to disaster from any officer of the Central Government, the State Government, the National Authority, the State Authority or the District Authority, shall, on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.

**53. Punishment for misappropriation of money or materials, etc.**—Whoever, being entrusted with any money or materials, or otherwise being, in custody of, or dominion over, any money or goods, meant for providing relief in any threatening disaster situation or disaster, misappropriates or appropriates for his own use or disposes of such money or materials or any part thereof or wilfully compels any other person so to do, shall on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.

**54. Punishment for false warning.**—Whoever makes or circulates a false alarm or warning as to disaster or its severity or magnitude, leading to panic, shall on conviction, be punishable with imprisonment which may extend to one year or with fine.

**55. Offences by Departments of the Government.**—(1) Where an offence under this Act has been committed by any Department of the Government, the head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of the Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the head of the Department, such officer shall be deemed to

be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**56. Failure of officer in duty or his connivance at the contravention of the provisions of this Act.**—Any officer, on whom any duty has been imposed by or under this Act and who ceases or refuses to perform or withdraws himself from the duties of his office shall, unless he has obtained the express written permission of his official superior or has other lawful excuse for so doing, be punishable with imprisonment for a term which may extend to one year or with fine.

**57. Penalty for contravention of any order regarding requisitioning.**—If any person contravenes any order made under section 65, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

**58. Offence by companies.**—(1) Where an offence under this Act has been committed by a company or body corporate, every person who at the time the offence was committed, was in charge of, and was responsible to, the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence was committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also, be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purpose of this section—

- i. “company” means any body corporate and includes a firm or other association of individuals; and
- ii. “director”, in relation to a firm, means a partner in the firm.

**59. Previous sanction for prosecution.**—No prosecution for offences punishable under sections 55 and 56 shall be instituted except with the previous sanction of the Central Government or the State Government, as the case may be, or of any officer authorised in this behalf, by general or special order, by such Government.

**60. Cognizance of offences.**—No court shall take cognizance of an offence under this Act except on a complaint made by—

- (a) the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised in this behalf by that Authority or Government, as the case may be; or
- (b) any person who has given notice of not less than thirty days in the manner prescribed, of the alleged offence and his intention to make a complaint to the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised as aforesaid.

**B. Section 188 in the Indian Penal Code, 1860**

**188.** Disobedience to order duly promulgated by public servant.—Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both; and if such disobedience causes or trends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

*Explanation.*—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

*Illustration*

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this section.

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**TRUE COPY**

**GOVERNMENT OF ANDHRA PRADESH****ABSTRACT**

Industries and Commerce Department – Containment, Control, and Prevention of COVID – 19 Epidemic – Resuming of Industries – Orders – Issued.

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**INDUSTRIES AND COMMERCE (P&I) DEPARTMENT**

G.O.RT.No. 98

Dated: 03-05-2020.

**Read the following: -**

1. G.O. Rt.No.88, I& C (P&I) Department, Dt. 18.04.2020.
2. G.O. Rt.No.92, I& C (P&I) Department, Dt. 29.04.2020.
3. MHA, GoI Order No. 40-3/2020-DM-I(A) Dt. 01.05.2020.

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**ORDER:**

The Industries and Commerce Department had issued consolidated guidelines vide GO Rt NO.88 given in the reference 1<sup>st</sup> read above along with certain modifications in GO Rt No.92 given in reference 2<sup>nd</sup> read above, for permitting industries to operate in the State duly imposing certain restrictions and distancing norms to prevent onset of community transmission of the Corona-virus.

2) Now, vide the order in reference 3<sup>rd</sup> cited above, the Ministry of Home Affairs (MHA), Government of India has issued new guidelines for containment of COVID-19 for the extended period of National lockdown for a further period of two weeks with effect from 4<sup>th</sup> May 2020.

3) As per the revised orders mentioned above, the districts in the State are categorised as Red, Orange and Green depending upon the case load and other factors. Districts of Kurnool, Guntur, Krishna, SPSR Nellore and Chittoor have been classified as Red Districts while Vizianagaram is classified as Green. The rest of the 7 districts are classified as Orange districts. The categorisation of mandals previously made will cease to exist with the new classification of districts.

4) In compliance of the above, partial modifications to the orders issued in G.O.Rt.No.88, Industries & Commerce Department, dated: 18.04.2020, are hereby issued:

- a. No Industrial activities shall be permitted in the Containment Zones either in the urban or rural areas. The Containment Zones shall be notified by the District Administration or the State government from time to time.
- b. The labour force working in the units shall not be taken from the Containment Zones as mentioned in point (a) above.
- c. Intermixing of labourers and staff coming from different places shall be avoided within the factory as far as possible.

- d. Every industry shall function duly following all the social distancing norms and all other measures for containing the spread of COVID-19 and all such measures as required from time to time. The Industry shall display prominently the SOPs being followed for social distancing at their premises.
- e. **In the Rural areas, the following are applicable**
  - i. All Industrial activities are permitted completely subject to points (a) to (d) above and subject to safeguards for prevention of spread of COVID 19, without any reference to essential or non-essential products in all Red/Orange/Green districts.
- f. **In the Urban Areas, the following are applicable**
  - i. Industrial activities are permitted completely subject to points (a) to (d) above and subject to safeguards for prevention of spread of COVID-19, without any reference to essential or non-essential products in Orange and Green districts.
  - ii. In case of Red zone districts, Industrial establishments in **urban areas** subject to points (a) to (d) above shall be permitted as follows:
    - 1. Special Economic Zones (SEZs), Export Oriented Units (EOUs), industrial estates and industrial townships with access control.
    - 2. Manufacturing units of essential goods, including drugs, pharmaceuticals, medical devices, their raw material and intermediates; production units which require continuous process, and their supply chain; manufacturing of IT hardware; jute industry with staggered shifts and social distancing; and manufacturing units of packaging material.

5) No separate/ fresh permissions will be required from any authority for activities already permitted to operate under the guidelines on “lockdown” measures up to 3<sup>rd</sup> May, 2020. The Standard Operating Protocols (SOPs) issued by MHA will continue to operate.

6) After 3<sup>rd</sup> May, 2020, the industrial units can automatically resume operations in all permitted areas and activities as mentioned above, without any specific permission or NOC but with a self-certification to be given by the head of the industrial unit. S(he) will self-certify to run the unit by complying with all the Standard Operating Procedures (SOPs) with regard to social distancing and other measures for containing the spread of COVID-19 as prescribed in G.O. Rt. No. 88, without any relaxation whatsoever in this regard. A form for self-certification /under taking in place of NOC is required to be made along with the other details in <https://www.apindustries.gov.in/Covid19/> on resumption of operations.

7) The District Collectors as Chairpersons of the DIPC shall guide and encourage the permissible units to restart the operations and also operate with migrant labour wherever available so that skilled manpower is gainfully retained.

8) Therefore, the District Collectors / Superintendents of Police / Director of Industries, Andhra Pradesh, Vijayawada /Director of Factories, Andhra Pradesh, Vijayawada /Commissioner of Labour, Andhra Pradesh, Vijayawada/Commissioner of Transport, Andhra Pradesh, Vijayawada are hereby instructed to strictly implement the modified consolidated guidelines accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

NILAM SAWHNEY  
CHIEF SECRETARY TO GOVERNMENT

To

1. All the District Collectors
2. All the Superintendent of Police
3. Commissioner of Police, Vijayawada and Visakhapatnam
4. Director of Industries, Andhra Pradesh, Vijayawada
5. Director of Industries, Andhra Pradesh, Vijayawada
6. Director of Factories, Andhra Pradesh, Vijayawada
7. Commissioner of Labour, Andhra Pradesh, Vijayawada
8. Commissioner of Transport, Andhra Pradesh, Vijayawada
9. All the General Managers of DIC
10. All the Zonal Managers of APIIC

**Copy to:**

PS to Chief Secretary to Government  
PS to Special Chief Secretary to Govt., Industries & Commerce Dept.  
PS to Secretary to Hon'ble Chief Minister  
PS to DGP, Andhra Pradesh

// FORWARDED: : BY ORDER//

SECTION OFFICER

**TRUE COPY**

ANNEXURE - U

**From:** P P C Mohan Rao[ppcmohan]

**Sent:** Monday, May 04, 2020 4:33 PM

**To:** 'collectorpeshivizag@gmail.com'

**Cc:** gmdic.vsp@ap.gov.in; 'dcifvskp@gmail.com';

'factoriesdepartmentvsp@gmail.com'; 'acpwestvsp@gmail.com'

**Subject:** Resume Plant Operations based on the relaxations given in the Lockdown 3.0 – LG Polymers India Pvt. Limited, , Visakhapatnam (AP).

04 May 2020

To  
The District Collector & Magistrate  
Maharanipeta  
Visakhapatnam

Dear Sir,

Sub: Resume Plant Operations based on the relaxations given in the Lockdown 3.0 – LG Polymers India Pvt. Limited, , Visakhapatnam (AP).

Ref: 1. GO from Govt of AP, Industries Commerce (P&I) vide No. 98 dated 03 May 2020.

2. Memo from Govt of AP (HM&FWD) vide No 43/Covid-19/2020 dated 03 May 2020.

3. Guidelines issued by MHA, GOI, Notification No. 40-3/2020-DM-I(A) dated 01 May 2020.

We, LG Polymers India Pvt Ltd., Visakhapatnam, a South Korean MNC is engaged in the manufacturing of Polystyrene, Expandable Polystyrene and Engineering Plastics and compounding.

With reference to point No. 6 of G.O. No. 98, dated 03.05.2020 issued by Govt of AP, Industries & Commerce Dept to restart plant operations by submitting self-

certification to comply all SOPs with regard to containing the spread of Covid-19.

In this regard, the undersigned assure you and certify that, in order to restart our operations with immediate effect, we comply with the guidelines, safety precautions and SOPs to maintain social distancing and other health and safety measures for controlling the spread of COVID-19.

We also declare that, our management is committed to safeguard our employees at workplace from spread of COVID -19, we have been following the below measures, as advised by the authorities:

- a. Thermal Screening of every individual entering the premises of factory is being done.
- b. Bio metric attendance recording system is replaced with non-contact type proximity card attendance recording system.
- c. Awareness programmes are conducted to all the workers regarding precautions to be taken while working inside the plant.
- d. Demarcations for necessary social distancing done at all place across the plant – plant entrance, attendance registering, etc
- e. Alcohol-based hand sanitizers (foot operated) are being used liberally in the plant.
- f. All the employees are provided with nose masks and PPEs based on their nature of works.
- g. All the meetings are being conducted through video call to avoid gatherings.
- h. Awareness programmes are conducted to all the employees and also displayed various SOPs and visual boards for info of all the employees.

- i. Entry of visitors are banned and entry of serving persons are permitted only after hand and face wash with water and soap, thermal scanning and hand sanitisation.
- j. Housekeeping in all the areas are scaled up.
- k. Canteen – clear partitions are made for the dining tables and implemented staggered timings for different category of employees to maintain social distancing. Food serving counter are being disinfected periodically. Stopped usage of water coolers & air conditioners.
- l. All the toilets, handrails, doorknobs, table tops etc are also being cleaned with disinfecting material once in 4 hours.
- m. Our plant premises including our transport vehicles (both raw material and finished goods carrying trucks) will be disinfected at the time of entry and exit from the factory gate.
- n. We are already following single entry and exit for all purposes as per the guidelines.

We fully comply with all the above mentioned health and safety measures to restart our operations as per Government guidelines.

We bring to your kind notice that our nature of Industry is a continuous manufacturing process and we will be running our operations in three shift / 24x7 basis, by providing staggered shifts /weekly off to all employees.

We have about 500 employees, both regular and contract workmen, we are taking all necessary steps to scale down our manpower drastically to meet our plant operations and majority of our office executives who are in support services are advised to work from Home to meet the MHA guidelines. Hence, we intend to

re-start our operations at small scale with about. 165 local employees in different shift operations.

We also declare that most of our employees are local residents of surrounding Mandal / Villages of Venkatapuram / Pendurthi & Visakhapatnam which are not in containment zones as announced by the District authorities.

Being an MNC Company, to meet our key customers business requirements / orders, we have to restart our operations immediately to sustain the business opportunities during this crisis situation. We assure you once again that our Company undertakes to follow all the guidelines issued by HM&FW Dept, Government of Andhra Pradesh.

We are very much grateful for your act of kindness, trusting us and supporting the organisation during this crisis to re-start our operations smoothly.

Yours faithfully,

For LG Polymers India Pvt. Limited

P.P.C. Mohan Rao

Director- Operations

Copy to:

The General Manager, DIC, Visakhapatnam

The Dy. Chief Inspector of Factories, Visakhapatnam

Asst. Commissioner of Police – West.

**TRUE COPY**

ANNEXURE - V**HIGH COURT OF ANDHRA PRADESH AT AMARAVATI****ROC.No.192/SO/2020****Dated: 04.10.2020****NOTIFICATION**

Sub: High Court of Andhra Pradesh – Alarming rise in COVID-19 positive cases in the State – Functioning of the High Court of Andhra Pradesh and offices under the Administrative control of the High Court i.e. the A.P. State Legal Services Authority, the High Court Legal Services Committee, Arbitration and Mediation Centre from 05.10.2020 to 03.11.2020 – Further instructions issued – Reg.

Ref: 1. High Court's Notifications in ROC No.192/SO/2020, dated 01.07.2020.  
 2. High Court's Notifications in ROC No.192/SO/2020, dated 13.07.2020.  
 3. High Court's Notifications in ROC No.192/SO/2020, dated 16.07.2020.  
 4. High Court's Notifications in ROC No.192/SO/2020, dated 21.07.2020.  
 5. High Court's Notifications in ROC No.192/SO/2020, dated 03.08.2020.  
 6. High Court's Notifications in ROC No.192/SO/2020, dated 17.08.2020.  
 7. High Court's Notifications in ROC No.192/SO/2020, dated 31.08.2020.  
 8. High Court's Notifications in ROC No.192/SO/2020, dated 21.09.2020.  
 9. High Court's Notifications in ROC No.192/SO/2020, dated 23.09.2020.

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In view of Covid-19 pandemic across the State, High Court of Andhra Pradesh in continuation of the earlier notifications under references 1 to 9 read above hereby notifies that the instructions under the said references shall remain in force from 05-10-2020 to till 03.11.2020, regarding functioning of the High Court of Andhra Pradesh and the offices under control of the High Court i.e., the A.P. State Legal Services Authority, the High Court Legal Services Committee, Arbitration and Mediation Centre.

  
 04/10/2020  
 REGISTRAR GENERAL

To

- 1) The Prl. Secretary to the Hon'ble the Chief Justice (with a request to place the notification before the Hon'ble the Chief Justice for His Lordship's kind perusal)
- 2) All the P.Ss to the Hon'ble Judges (with a request to place the notification before the Hon'ble Judges for their Lordships' kind perusal).
- 3) All the Registrars, High Court of Andhra Pradesh.
- 4) The Registrar (IT-cum-Central Project Coordinator), High Court of Andhra Pradesh [with a request to instruct the concerned to place the same in High Court's website]
- 5) All the Unit Heads in the State of Andhra Pradesh.
- 6) All the Officers, High Court of Andhra Pradesh.
- 7) All the Section Heads, High Court of Andhra Pradesh.
- 8) The Director, Judicial Academy, Secunderabad.
- 9) The Director, High Court Mediation & Arbitration Centre, High Court Building, Amaravati.
- 10) The Member Secretary, A.P. State Legal Services Authority, High Court Building, Amaravati.
- 11) The Secretary, High Court Legal Service Committee, High Court Building, Amaravati.

- 12) The Advocate General, State of Andhra Pradesh, Amaravati.
- 13) The Secretary to Governor, for the State of Andhra Pradesh, Vijayawada.
- 14) The Chief Secretary to Government, Government of Andhra Pradesh, A.P. Secretariat, Velagapudi, Amaravathi.
- 15) The Secretary to Govt., Law (L.A & J-Home Courts) Dept., Government of Andhra Pradesh, Velagapudi, Amaravati, Guntur District - 522237.
- 16) The Registrar, A.P. Lokayukta, Hyderabad.
- 17) The Registrar, Andhra Pradesh State Consumers Redressal Forum, Vijayawada
- 18) The Chairman, Sales Tax Appellate Tribunal, at Visakhapatnam.
- 19) The Special Judge for trial of CBI Cases, Visakhapatnam.
- 20) The Presiding Officer, Labour Court, Anantapuramu, Guntur and Visakhapatnam.
- 21) The Additional Registrar, Railway Claims Tribunal, Amaravati Bench, Arandalpet, Guntur.
- 22) The Registrar, Income Tax Appellate Tribunal, Visakhapatnam.
- 23) The Chairman, Tribunal for Disciplinary Proceedings, Hyderabad.
- 24) The Secretary General, Supreme Court of India, New Delhi.
- 25) The Registrars General, All High Courts in India.
- 26) The Secretary, Bar Council of A.P., High Court of A.P., Amaravati.
- 27) The Accountant General, Enikepadu, Vijayawada, Andhra Pradesh.
- 28) The Public Prosecutor, High Court of Andhra Pradesh, Amaravati
- 29) The Administrative Officer, Government Pleaders' Office, High Court of A.P., Amaravati.
- 30) The Administrator General & Official Trustee at High Court Buildings, Hyderabad.
- 31) The Director of Prosecutions, Governorpet, Vijayawada.
- 32) The Commissioner of Printing and Stationery Department, A.P. Government Press, Mutyalampadu, Vijayawada. Pin.520 011 (For Publication in the Gazette Urgently).
- 33) The President, Andhra Pradesh High Court Advocates' Association, Amaravati.
- 34) The Secretary, Advocates' Clerks' Association, High Court of Andhra Pradesh, Amaravati.
- 35) The Commissioner, Information & Public Relations, A.P., RTC Bhavan, Vijayawada (with a request to publish the notification in all local dailies)
- 36) The Director, All India Radio, Vijayawada.
- 37) The News Director, Doordarshan Kendra, Vijayawada
- 38) The Editors, Eenadu, Deccan Chronical, Sia-sat, Sakshi  
Andhra Jyothi, Vaartha, The Hindu & Indian Express.
- 39) The Deputy Director, Public Relations, Andhra Pradesh Secretariat, Velagapudi.
- 40) The Overseer, High Court of Andhra Pradesh, Amaravati.

} With a request for making  
necessary announcement

} For publication in the Newspaper

SPARE.

**TRUE COPY**

ANNEXURE - W**HIGH COURT OF ANDHRA PRADESH AT AMARAVATI****ROC No.192/SO/2020****Dated: 01.07.2020****NOTIFICATION**

**SUB:** Alarming rise in COVID-19 cases in the State – Functioning of the High Court of Andhra Pradesh, State Legal Services Authority, High Court Legal Services Committee and Arbitration and Mediation Centre from 02.07.2020 to 13.07.2020 – Revised instructions for judicial and administrative work - Issued – Reg.

- REF:** 1. High Court's Notification in Roc.No.192/SO/2020, dated 24.03.2020  
2. High Court's Notification in Roc.No.192/SO/2020, dated 26.03.2020  
3. High Court's Notification in Roc.No.192/SO/2020, dated 15.04.2020  
4. High Court's Notification in Roc.No.192/SO/2020, dated 21.04.2020  
5. High Court's Notification in Roc No.192/SO/2020, dated 04.05.2020  
6. High Court's Notification in Roc No.192/SO/2020, dated 17.05.2020  
7. High Court's Notification in Roc No.192/SO/2020, dated 12.06.2020  
8. High Court's Notification in Roc No.192/SO/2020, dated 20.06.2020  
9. High Court's Notification in Roc No.192/SO/2020, dated 25.06.2020  
10.High Court's Notification in Roc No.192/SO/2020, dated 27.06.2020  
11.High Court's Notification in Roc No.192/SO/2020, dated 28.06.2020  
12.High Court's Notification in ROC No.192/SO/2020, dated 30.06.2020

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Having considered the alarming rise of COVID-19 positive cases in the State of Andhra Pradesh in supersession of the Notifications in the references cited above, the following instructions are issued for judicial and administrative functioning of the High Court of Andhra Pradesh, State Legal Services Authority, High Court Legal Services Committee and Arbitration and Mediation Centre with effect from 02.07.2020 which shall remain in force up to 13.07.2020:

1. The Judicial and Administrative work in the High Court of Andhra Pradesh, State Legal Services Authority, High Court Legal Services Committee and Arbitration and Mediation Centre working under the control of High Court of Andhra Pradesh is confined only to urgent matters through video conferencing.
2. Filing of urgent cases shall be only through e-filing mode and the guidelines issued by the High Court viz., "e-filing and Video Conferencing Guidelines for the High Court of Andhra Pradesh" shall be followed for filing of urgent cases. Filing papers sent on e-mail id will not be entertained.
3. The hearing of urgent matters shall be from the official residences of the Hon'ble Judges through Blue Jeans video conferencing application or any other application approved by the High Court.
4. The following matters may be treated as urgent:
  - a) **Bail petitions,**
  - b) **Suspension of sentence,**
  - c) **Habeas corpus petitions,**
  - d) **Demolition/eviction from the premises,**
  - e) **Dispossession from the land,**
  - f) **In pending matters, if any application for urgent hearing assigning urgency is filed, looking to the nature of the case, on satisfaction by the Hon'ble the Chief Justice on the issue of urgency, such matters can be taken up,**
  - g) **Any other matter which may deem urgent by the Hon'ble the Chief Justice.**

*Sunk*  
1-7-20

**REGISTRAR (RECRUITMENT)  
I/C REGISTRAR GENERAL**

1. The Prl. Secretary to the Hon'ble the Chief Justice (with a request to place the notification before the Hon'ble the Chief Justice for His Lordship's kind perusal)
2. All the P.Ss to the Hon'ble Judges (with a request to place the notification before the Hon'ble Judges for their Lordships' kind perusal).
3. All the Registrars, High Court of Andhra Pradesh.
4. The Registrar (IT-cum-Central Project Coordinator), High Court of Andhra Pradesh [with a request to instruct the concerned to place the Notification in High Court's website]
5. All the Unit Heads in the State of Andhra Pradesh.
6. All the Officers, High Court of Andhra Pradesh.
7. All the Section Heads, High Court of Andhra Pradesh.
8. The Director, Judicial Academy, Secunderabad.
9. The Director, High Court Mediation and Arbitration Centre, High Court Building, Amaravati.
10. The Member Secretary, A.P. State Legal Services Authority, High Court Building, Amaravati.
11. The Secretary, High Court Legal Service Committee, High Court Building, Amaravati.
12. The Advocate General, State of Andhra Pradesh.
13. The Secretary to Governor, State of Andhra Pradesh, Vijayawada.
14. The Chief Secretary to Government, Government of Andhra Pradesh, A.P.
15. The Secretary to Govt., Law (L.A & J-Home Courts) Dept., Government of Andhra Pradesh, A.P. Secretariat, Velagapudi, Amaravati.
16. The Registrar, A.P. Lokayukta, Hyderabad.
17. The Registrar, A.P. State Consumer Disputes Redressal Commission, Vijayawada.
18. The Chairman, Sales Tax Appellate Tribunal, Visakhapatnam.
19. The Special Judge for Trial of CBI Cases, Visakhapatnam.
20. The Presiding Officer, Labour Court, Anantapur; Guntur; and Visakhapatnam.
21. The Additional Registrar, Railway Claims Tribunal, Amaravati Bench, Arandalpet, Guntur.
22. The Registrar, Income Tax Appellate Tribunal, Visakhapatnam.
23. The Chairman, Tribunal for Disciplinary Proceedings, Hyderabad.
24. The Secretary General, Supreme Court of India, New Delhi.
25. The Registrars General, All High Courts in India.
26. The Secretary, Bar Council of A.P., High Court, Amaravati.
27. The Accountant General, Enikepadu, Vijayawada, Andhra Pradesh.
28. The Public Prosecutor, High Court of A.P., Amaravati.
29. The Administrative Officer, Government Pleaders' Office High Court of A.P., Amaravati.
30. The Administrator General and Official Trustee, High Court Building, Hyderabad.
31. The Director of Prosecutions, Vijayawada.
32. The Commissioner of Printing and Stationery Department, A.P. Government Press, Mutyalampadu, Vijayawada. Pin.520 011 (For Publication in the Gazette).
33. The President, High Court Advocates' Association, Amaravati.

34. The Secretary, Advocates' Clerks' Association, High Court of Andhra Pradesh.
35. The Commissioner, Information & Public Relations, Andhra Pradesh, RTC Bhavan, Vijayawada. (with a request to publish the notification in all local dailies)
36. The Director, All India Radio, Vijayawada. } With a request for making necessary announcement
37. The News Director, Doordarshan Kendra, Vijayawada.
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39. The Deputy Director, Public Relations, Andhra Pradesh Secretariat, Velagapudi.
40. The Overseer, High Court of Andhra Pradesh.
41. SPARE.

**TRUE COPY**