

Statement

India (Andhra Pradesh): Vishakapatnam LG Plant Was a Disaster waiting to Happen — Environmental and Regulatory authorities complicit in such disasters

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Public Statement on the Vishakapatnam LG Polymers Plant Gas Leak Accident of 7 May 2020 by Coalition for Environmental Justice in India.

The early morning leak of a deadly gas from L G Polymers plant located west of Vishakapatnam in Andhra Pradesh on 7th May, is frighteningly reminiscent of the disastrous gas leak in Bhopal from the Union Carbide/Dow Chemical's plant on the night of 2-3rd December 1984. Video footage and ground reports reveal thousands have been horribly impacted in their sleep and this resulted in the death of at least a dozen. It is because of the courageous intervention of local youth, local police and personnel of the National Disaster Response Force, who acted with urgency at enormous risk to their lives, that hundreds were saved from the worst consequences.

Quite unnecessarily and typically, Andhra Pradesh's Director General of Police Mr.Damodar Goutam Sawang, IPS, appears to have uncritically and rather quickly rushed to the company's defense that it was "strictly following all protocols", when there was no way to ascertaining if they did, within hours of the accident. chief minister Mr. Jagan Mohan Reddy has also stated the company is "reputed", in away explaining for the company. This when the company has admitted in an affidavit that it had expanded operations without due consent from State and central regulatory authorities.

Hours before the LG incident, at least 7 workers fell sick after being exposed to noxious fumes at the Shakti Paper Mill in Raigarh, Chattisgarh. At least 8 workers were seriously injured and scalded, later in the day, when a boiler exploded at Neyveli Lignite Corporation in Tamilnadu. These three incidents within hours of each other, in different parts of India, are indicative of the dangers latent to opening up industrial production, several weeks after being forced to suddenly shut systems down due to a lockdown enforced across India and without any prior planning or chance for preparedness.

In a situation where review and enforcement of environmental, health, risk and social safeguards by regulatory agencies are sloppy, these incidents expose, once again, text book cases of criminal complicity between regulatory agencies, environmental authorities, land use clearance agencies and corporate bodies involved in causing such disasters. Such corrupt systems are repeatedly exposing workers and the public to totally unacceptable risks due to industrial accidents and release of toxic materials, often with irreversible consequences. If corrective measures are not adopted immediately, such instance could recur, and with greater regularity, as industrial production and energy generation reopens post-lockdown.

A disaster waiting to happen from a company philosophical about statutory compliance:

The quality of application for environmental clearance for expansion of the LG India Pvt. Ltd. facility at Vizag filed by Mr. P Chandramohan Rao, Director (Operations) is indicative of the lackadaisical approach adopted by the company in conforming to statutory public safety and environmental norms. In response to a question if hazardous chemicals used in the plant would impact local people, the application claims "No sensitive receptors are present in the immediate vicinity of the site. The project shall not have any significant impact on vulnerable groups of people" (Item3.4). Mr. Rao further claims that "all the hazardous materials will be stored in MSdrums, in a covered shed and no contamination of soil is expected. Same philosophy will be followed for the after expansion." (Item 7.1, emphasis supplied) Clearly, MoEF&CC and APPCB officials and experts have ritually reviewed the application and obviously have not found anything wrong with a company that relies on 'philosophy' regarding critical safety functions.

This 'accident' was waiting to happen and is the direct outcome of a very serious breach of safety protocol in handling toxic and hazardous chemicals. As is now reported, LG opened the plant for production without sufficient strength of technically qualified personnel and supportive staff present who are critical to dealing with any and all exigencies. *Profit-making and cost-cutting appears to have clearly gained priority over public safety and environmental compliance. This is clearly indefensible.*

What has also become evident is that the company was not in any state of readiness to handle the emergency once the accident occurred. Preliminary accounts reveal LG had not instituted any of the mechanisms essential per the Chemical Accidents (Emergency Planning, Preparedness and Response) Rules, 1996 and Hazardous Waste Management Rules 2016. This is clearly evident from the fact that local youth and police were the first respondents to the emergency.

State and Central Regulatory agencies complicit in this disaster:

Records reveal that L G Polymers was operating the plant claiming it as an "essential" industry, though all it produces is polystyrene pellets used in making plastic, as in children's toys. As Mr. EAS Sarma IAS (Retd.), who retired as Power Secretary of India, has stated, the company possibly benefited from complicity of Andhra Pradesh Pollution Control Board (APPCB) and land use planning authorities, who accorded the Red Category project approval to continue operating in a densely populated region of Vishakapatnam in gross violation of all applicable norms and standards. The company possibly expanded production, and admittedly applied for post-facto clearance from Ministry of Environment, Forests and Climate Change (MoEFCC). This application ought to have been rejected at the very instance of filing and action initiated against this rogue company.

Needless to state, officials and experts involved in approving the LG plant, be they from AP State Planning Board, Industry Department, APPCB, MoEF&CC, and such other approval and regulatory authorities, are complicit of criminal malfeasance in this disaster. While the owners and managers must be held accountable for this crime, officials and experts who were aware of the lack of compliance of standards by the company must similarly be held accountable for this heinous crime. Officials are particularly guilty of allowing this RED Category industry to continue to operate in a densely crowded neighbourhood of a major metropolis, when this has been absolutely prohibited. What is worse is that they approved the reopening of this factory during the lockdown (even though it is a non-essential industry) and without reviewing if safeguards were in place.

In a Press Conference held jointly by the Union Ministry of Home Affairs, Union Ministry of Health and the National Disaster Management Authority, a few hours after the LG plant disaster, the leak of styrene was confirmed. But agencies have not, as yet, shared test results to confirm if it was only

styrene vapours that leaked, or there were deadlier releases. [1] Besides, it is also not clear if sufficient quality controlled samples were collected from within and around the impact zone to ensure appropriate legal action can be initiated against the company.

Taking into consideration the above, we demand:

In the case of LG facility:

1. The entire factory and the impacted region must be secured immediately, and taken out of the control of the owners. The facility must be monitored and managed, and steps initiated to shut it down immediately. All workers employed in the facility must be absorbed into other operations of the company.
2. Every one impacted must be provided the best care and treatment to full recovery at no cost at all to the victims, whatever be the duration of their treatment and recovery, guided by the Principle of Inter-generational Equity, as the chemicals leaked are known to be carcinogenic and neurotoxic, and there could be inter-generational consequences. The cost involved in taking care of victims must be recovered from LG India Pvt. Ltd. as per Polluter Pays Principle.
3. We hope serum prolactin and urine tests have been undertaken on anyone exposed to the toxic gas to determine the extent of exposure and the degree of damage caused.
4. The compensation package announced for the victims of the disaster by the chief Minister of Andhra Pradesh is welcome. But this must be considered as merely ex gratia and appropriate compensation must be determined through judicial review.
5. All families affected by the disaster must be immediately compensated financially without any delay. As has been demanded by trade unions, at least one member of the family of the deceased and of those with critically injured should be provided tenured employment at the cost of LG India Pvt. Ltd.
6. Every neighbourhood and village impacted must be comprehensively reviewed for damage caused, and victims must be rehabilitated. The Local Crisis Management Group, if not constituted, must immediately be organized under the Chemical Accidents (Emergency Planning, Preparedness and Response) Rules, 1996, to guide this process. Due enquiry must be initiated why such Groups were not organized before, and action initiated against such dereliction of obligatory duties.
7. A highly competent team of experts drawn from National Disaster Management Authority, Central Pollution Control Board, Indian Institute of toxicology Research, National Institute for Research in Environmental Health, and Non-Governmental Toxicology and Public Health experts, *with half of the members not from within any government agency*, must be constituted to comprehensively investigate this incident and produce a report to the public at large (no secrecy) within two weeks. This Committee may also be tasked to instruct precautions essential in re-opening industrial operations in the state. This Committee must be headed by a retired Judge of the High Court and it must follow due process as per the Principle of Free, Prior and Informed Consent so that public trust and confidence in its findings - directly related to the transparency and fairness with which it conducts its proceedings, is secured. Consequently, the High Powered Committee set up by Andhra Pradesh Government to investigate the incident, and which is populated by the very officers who are complicit in this disaster, must be scrapped forthwith.
8. Two Continuous Ambient Air Quality Monitoring Station are supposed to be working within the LG plant area as per clearance conditions. The aforesaid committee must investigate if these stations were working and all documentation from these must be secured. The Committee must also verify if

fresh uncontaminated samples of air have been taken to analyse beyond any doubt the nature of chemicals that escaped into the impact zone. Similarly, soil and water samples from multiple locations must be taken and analysed to establish the nature and cause of the contamination and damage.

9. The Hon'ble High Court of Andhra Pradesh has taken *suo-moto* cognizance of this 'accident'. The Government of Andhra Pradesh must file an affidavit before the Court praying the case must be dealt with in accordance with the Hon'ble Supreme Court's decision in Oleum Gas Leak Case [2], wherein such 2 instances the Principle of Absolute Liability was found necessary. A similar affidavit must also be filed before the Central Bench of the Hon'ble National Green Tribunal which has also taken *suo-moto* cognizance of the disaster but merely under the Principle of Strict Liability.

10. The Managing Director of LG India Pvt. Ltd. and senior managers of the company must be immediately arrested for this ghastly crime. They must not be allowed to escape, as has happened in the Bhopal Gas Crime.

11. Each and every official and expert of MoEFCC, Industries Department, Landuse planning authority and APPCB who handled LG's applications for clearances and permissions, must be held guilty of omission and commission in carrying out due diligence, and necessary criminal and civil action initiated against them as per law.

12. The company that conducted the EIA for the LG India Pvt. Ltd., and also the auditor who extended the ISO certification, must be immediately blacklisted.

Action necessary across India before reopening industrial production:

13. The Government of India must immediately stop any and all measures underway in welcoming polluting industries from China and elsewhere which it announced recently is a measure to help revive the post-COVID economy. From Bhopal to Vizag, India has been a site of some of the most devastating industrial disasters, and MoEF&CC and Industries Ministry has shown no seriousness whatsoever in dealing with the risks and consequences. This lackadaisical approach must end now.

14. All efforts promoting the dilution of environmental regulatory standards of India, being aggressively promoted by Mr. Prakash Javdekar - at once the Indian Minister for Environment and also of Heavy Industries, obviously involving conflict of interest, must end. Prime Minister Mr. Narendra Modi must at least now appreciate the critical importance of having a minister with uncontestable competence heading MoEF&Cc.

15. The Vizag situation is a clear and present indicator of the devastation of this 'profit first - nature and human rights later' attitude. *The 'principle of utmost good faith'* in the investor/industrialist relied upon by the TSR Subramanian Committee set up by Prime Minister Modi, and which promoted dilutions of environmental and social impact review and regulations, must be immediately abandoned.

16. All three industrial disasters has exposed the callousness on the part of operators of hazardous processes and their pursuit of profits. Complicit in such illegalities are incompetent regulatory agencies and policymakers who have permitted industries to violate applicable standards and the law, inclusive of and not limited to the Environment Impact Assessment Notification. Rather than visit violators with stringent corrective action, they are rewarding them with *ex post facto* clearances, resulting in disasters. All pending applications for *ex post facto* clearances should thereby be rejected forthwith. Any grant of such permissions must be reviewed by a committee comprised of independent experts.

17. Revamp all State Pollution Control Boards by including citizens and independent experts and reducing membership of industry and state representatives, so that the body can play its role as state in law to ensure public interest is prime in its decision making.

18. All industrial areas must be immediately monitored by local environment monitoring committees involving local residents, so that they can be true wardens of public health, safety and the environment. Similarly, local and district Crisis Management Groups must be established, and they must oversee necessary safety protocols in and around industrial processes involving hazardous chemicals, and especially before opening up production following lifting of lockdown, as is necessary per the Chemical Accidents (Emergency Planning, Preparedness and Response) Rules, 1996 and Hazardous Waste Management Rules 2016.

19. All precautions necessary for industrial production as per Factories Act must be in place. Regulatory authorities must ensure strict conformance with compliance essential in hazardous processes as per Chapter IVA of the Act.

20. Regulatory agencies, particularly Pollution Control Boards and Environment Ministries, must immediately verify existence and viability of on-site and off site emergency Plans and their compliance with standards demanded in Chemical Accidents (Emergency Planning, Preparedness and Response) Rules, 1996.

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Coalition for Environmental Justice in India

Statement released on behalf of CEJI by Environment Support Group, Bangalore.

Endorsed by:

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- 2.Bargi Bandh Visthapit and Prabhavit Sangh
- 3.Centre for Financial Accountability
- 4.Centre for Financial Accountability, New Delhi - CFA
- 5.Chipko-Appiko Movement, Karnataka
- 6.Chutka Parmanu Virodhi Sangharsh Samiti
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- 9.Focus on the Global South
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- 14.Mahengi Bijali Abhiyan, Madhya Pradesh
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- 16.NAPM, Madhya Pradesh
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- <http://www.sacw.net/article14317>
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Footnotes

[1] Styrene is heavier than air and quickly oxidises when released into the atmosphere producing styrene oxides, which is even more hazardous. For details of hazards from styrene oxide, see Sec. 11.1.4 and 11.1.6 in PubChem description of Styrene Oxide, accessible at: <https://pubchem.ncbi.nlm.nih.gov/compound/Styrene-oxide#section=FTIR-Spectra>. For discussion of Styrene, see: <https://pubchem.ncbi.nlm.nih.gov/compound/7501#section=Molecular-Formula>

[2] M.C. Mehta v. Union of India (Oleum Gas Leak Case) AIR 1987 SC 1086 Para 325