

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
(APPELLATE SIDE)**

Present:

The Hon'ble Justice Smita Das De

W.P.A. No. 8308 of 2025

Rais Uddin Purkait and Anr.

Vs.

The Union of India and Ors.

For the Petitioners : Mr. Soumya Majumder, Sr. Adv.
: Ms. Sanjukta Dutta

For the Respondent No. 1&6 : Mr. Debapriya Gupta,
: Mr. Piyas Choudhury
: Ms. Sucharita Biswas
: Mr. Sujoy Paul

For the Respondent No. 2 to 5 : Mr. Prasun Mukherjee
: Mr. Deepak Agarwal

Reserved on : **19/08/2026**

Judgment on : **15/09/2026**

Smita Das De, J.:-

- 1.** The Writ Petition is directed against the Order dated February 19, 2025, passed by the HPCL being respondent No. 5 herein, whereby the Letter of Intent (LOI) dated March 30, 2015, for the award of Rajiv Gandhi Gramin LPG Vitarak (RGGLV) Distributorship at Dakshin Akraheria, District 24 Parganas, has been withdrawn and a sum of Rs. 20,000/- deposited towards Field Verification of credentials has been forfeited.
- 2.** Apropos the facts of the case, pursuant to an advertisement dated January 21, 2014, petitioner No. 1 has been selected under one of the categories of RGGLV Distributorship. Thereafter, a Letter of Intent (LOI) has been issued on March 30, 2015.

3. The LOI contained a specific stipulation that the LOI and the appointment as RGGLV Distributor are subject to the final outcome of pending litigation being WPA No. 7302 of 2015, filed by one Mozaffar Hossain Khan, challenging the selection.
4. Petitioner No. 1 obtained No Objection Certificate (NOC) from the concerned authorities, including the Sub-Inspector of Police, the Gram Pradhan, and the Joint Block Development Officer, Kulpi.
5. Pursuant to the field enquiry conducted on June 26, 2015, regarding joint verification, fulfilment of the basic criteria and delivery potential, an Enquiry Report has been forwarded to the District Magistrate. Thereafter, the Additional District Magistrate accorded the final NOC and intimated the same to HPCL on July 24, 2015.
6. On May 5, 2015 Petroleum and Explosive Safety Organization (PESO) intimated that the Site Layout and Construction Plan of the proposed storage facilities has been conditionally approved subject to submission of a plan, duly endorsed by the NOC issuing authority at the time of grant of the licence.
7. The approved premise has thus crossed an important stage of statutory scrutiny. Although such approval did not amount to the grant of License by PESO, it evidenced that the licensing process has substantially progressed.
8. The judgment and order passed in WPA No. 7302 of 2015 filed by Muzaffar Hossain Khan, has been carried in appeal before the Hon'ble Apex Court. By an Order dated September 21, 2023, the Hon'ble Apex

Court dismissed the appeal, thereby upholding the selection of petitioner No. 1.

- 9.** On October 7, 2023, petitioner No. 1 applied for trade registration. Certificates for the period of 2023-24, 2024-25 and 2025-26 and the same have been generated accordingly.
- 10.** On November 28, 2023, petitioner No. 1 intimated respondent No. 5 regarding the completion of the godown and showroom and requested the issuance of a completion certificate upon inspection.
- 11.** By letter dated January 2, 2024 the Senior Area Sales Manager, Kolkata LPG RO, observed that, during the inspection on December 14, 2023 the show room and the gate have not been in conformity with the approved layout plan.
- 12.** On January 25, 2024 a fresh plan has been issued since the previous plan has been made on April 20, 2015.
- 13.** By an email dated May 26, 2024 petitioner no. 1 through a letter requested HPCL to provide the necessary documents for commencement of commissioning and to clarify the reason for the delay in issuance of PESO license. In response, by communication dated May 28, 2024 the authority stated that it could not explain the reason for the delay in issuance of the licence by PESO. Thereafter, the petitioner No. 1 has been running from pillar to post and became embroiled in an inter-departmental process.
- 14.** It is submitted that, during the pendency of the proceedings, petitioner No. 1 has been diagnosed with Schizophrenia with 70% temporary

disability certified by Medical Board consequently, sought to nominate his brother in his place.

15.In the meantime the petitioner no 1 joined in a school in South 24 Parganas as an Assistant Teacher (Primary) from February 2024.

16.On November 1, 2024 and December 20, 2024 applications have been made by the petitioner no.1 before the respondent no 4, requesting transfer of letter of Intent to his elder brother (being the petitioner no. 2 herein) and his wife, in view of the investments made for the last 9 years and 6 months.

17.Again on December 20, 2024 petitioner no. 2 being the elder brother of petitioner no. 1 made a representation before the respondent no. 5 requesting inter alia, transfer of LOI in his favour to carry out the necessary formalities, in view of the current health condition of the petitioner no 1.

18.However, without considering the prayer made by the petitioners, respondent no. 5 merely reiterated its earlier contentions and requested to submit the reconstitution proposal as per guidelines by another letter dated January 6, 2025.

19.On January 17, 2025 the respondent No. 5 called upon petitioner No. 1 to provide an update regarding the commissioning process.

20.On February 19, 2025 the respondent No. 5 issued the impugned letter withdrawing the LOI on the alleged ground of violation of Clause 1, 3.1, 3.2 of LOI and forfeiting Rs. 20,000/- deposited towards Field Verification of Credentials.

- 21.** Thereafter, on March 3, 2025 the petitioner No. 1 submitted a representation seeking withdrawal of the letter dated February 19, 2025 requesting inter alia, transfer of the LOI in favour of petitioner No. 2.
- 22.** Being aggrieved by the rejection of the transfer of PESO license in favour of the petitioner's elder brother and issuance of the letter dated February 19, 2025 the petitioner has filed the present writ petition.

Contention of the Petitioner-

- 23.** Learned counsel appearing on behalf of the petitioner submits that the reconstitution at the Letter of Intent stage is strictly regulated under Clause 3.3 and 3.7 of the guidelines and is permissible only in cases of death or total and permanent disability. Clause 3.2 explicitly restricts co-ownership with the spouse, hence, induction of an elder brother at the LOI stage is impermissible and de hors the policy.
- 24.** It is submitted that administrative authorities are required to act fairly, reasonably, and consistently, they cannot take advantage of their own delay to disadvantage the petitioner. Thus, withdrawal of the LOI is liable to be set aside and the restriction on nomination at LOI stage is arbitrary and contrary to the RPWD Act, 2016. Respondents are liable to be directed to complete the commissioning by permitting nomination in favour of petitioner No. 2, since petitioners have already acted upon LOI and invested substantial amounts in accordance with its conditions.
- 25.** The conduct of the respondents created a legitimate expectation in the petitioner that, upon fulfilling the prescribed conditions, the distributorship would be commissioned. Such legitimate expectation cannot be defeated by arbitrary action of the authorities.

- 26.** With regard to the identification and feasibility of the land, the State authorities have permitted construction of the godown. The delay in finalising the process has been on account of the oil company and the pending litigation. Such delay cannot, therefore, be made a ground for rejecting the petitioner's claim.
- 27.** The respondents cannot take advantage of their own omission or delay. The delay in commissioning has been caused by the pending litigation and the failure of the authorities to process the matter and issue necessary approvals. A party cannot rely upon a delay or default caused by its own conduct to defeat the legitimate rights of another.
- 28.** Learned Counsel for the petitioner submits that the LOI dated March 30, 2015 has been issued pursuant to the Advertisement dated January 21, 2014 under the "Open Category".
- 29.** The petitioner obtained all the necessary NOCs in 2015, and PESO approved the site layout on May 5, 2015. Acting upon the LOI, the petitioner completed the godown and showroom after making substantial financial investment.
- 30.** It is further submitted that HPCL has admitted that, due to the pendency of proceedings before this Court, the distributorship at the concerned location could not be commissioned or further processed. Therefore, the delay of about nine and a half years cannot be attributed to the petitioner.
- 31.** By a communication dated February 5, 2024, PESO sought the latest original LOI. However, no fresh LOI has been granted in favour of the petitioner.

- 32.** On May 26, 2024, the petitioner addressed a communication to HPCL seeking the necessary documents and clarifications. In response, HPCL stated that they are unable to explain the reason for the delay on the part of PESO in issuing the licence.
- 33.** The petitioner has been approaching the concerned authorities for completion of the required formalities. However, the matter remained pending between the different authorities, and the distributorship could not be commissioned due to the absence of the required explosives licence.
- 34.** Thereafter, the LOI has been withdrawn by communication dated February 19, 2025. During the pendency of the litigation, the petitioner acquired the disability and thereafter sought permission for nomination in favour of his elder brother.
- 35.** It is further submitted that HPCL has admitted that, because of the pendency of the proceedings before this Court, the distributorship at the concerned location could not be commissioned or proceeded with.
- 36.** It is submitted that restricting nomination only to cases of death or total and permanent disability is contrary to law. The respondents' contention that the petitioner is employed elsewhere is also irrelevant to the issue.
- 37.** Neither the RPWD Act nor the applicable Guidelines provide that a person with disability becomes ineligible for nomination or reconstitution merely because he is employed. Therefore, the stand taken by the respondents while rejecting the petitioner's request cannot be sustained in law.

Contention of the Respondent No. 2 to 5-

- 38.** Per contra, the learned counsel appearing for the respondent Nos. 2 to 5 submits that the petitioner No. 2 has no contractual relationship with the Oil Company, respondent No. 6.
- 39.** The conditional Letter of Intent dated March 30, 2015 has been issued only in favour of petitioner No. 1. Petitioner No. 2 did not participate in the selection process and, therefore, no legal right in respect of the distributorship accrued to him.
- 40.** It is further submitted that the writ petition is not maintainable for non-joinder of necessary parties. The guidelines framed jointly by HPCL, Indian Oil Corporation Limited (IOCL), and Bharat Petroleum Corporation Limited (BPCL) being the concerned parties require to be impleaded. Since IOCL and BPCL have not been made parties to the writ petition, the petition is liable to be rejected for non-joinder of necessary parties.
- 41.** It is submitted that petitioner No. 1 failed to fulfil the mandatory requirement of obtaining and furnishing a PESO licence. Accordingly, the LOI dated February 19, 2025 has been withdrawn, particularly because the PESO application has been rejected on March 19, 2024 for failure to comply with the requisition dated February 15, 2024.
- 42.** Possession of a PESO-licensed godown is a condition precedent under the LOI and any challenge thrown to the rejection of the PESO licence, is appealable under Rule 2(7) of the Gas Cylinders Rules, 2016.
- 43.** An LOI cannot be treated as a transferable asset by way of reconstitution when the original candidate has failed to fulfil the basic requirements for commissioning the distributorship. Reconstitution at the LOI stage is permitted only in the circumstances specified in Clauses 2.3 and 2.7 of

the Guidelines, namely, death or total and permanent disability.

Induction of an elder brother is not permitted under Clause 3.2.

44. It is submitted that the grant of an LPG distributorship is a commercial business arrangement involving business risk. It is not a social welfare or poverty alleviation scheme covered by Section 37 of the Rights of Persons with Disabilities Act, 2016.

45. It is further submitted that, under Clause 14(4) of the RPWD Act, an applicant who is employed is required to resign from service before the letter of appointment is issued. Petitioner No. 1 joined service as an Assistant Primary Teacher in February 2024. The PESO authority sought certain documents and compliance, by its letter dated February 15, 2024. Since the petitioner failed to comply with the said requirements, the PESO authority rejected the licence application on March 19, 2024.

46. The appointment of a dealer is governed by RGGLV Guidelines. Reconstitution of distributorship is not provided under the RGGLV Selection Guidelines. It is regulated by the separate set of guidelines known as detailed guidelines for reconstitution of LPG distributorship. The two guidelines operate in two different dimensions. The selection guidelines deal with initial eligibility and commissioning criteria whereas the reconstitution guidelines govern post commissioning or contingencies based on restructuring.

47. The withdrawal of the Letter of Intent dated February 19, 2025 is directly routed in the non-submission of the mandatory PESO Licence.

48. The Division Bench of Karnataka High Court in **Karnataka Rajya Vikalachetanara Rakshana Samiti vs IOCL & Ors.** reported in **(2018)**

SCC Online Karnataka 1336 pr 24 held that the commercial contract for LPG Distributorship does not fall under section 37 of RPWD Act, 2016. The Clause 3.2 explicitly restricts co-ownership with the spouse, induction of an elder brother of the spouse at the Letter of Intent stage is impermissible.

49. Learned Counsel appearing for the respondent authorities raises an objection on the ground of maintainability and submits that it is a well settled proposition of law that court in writ jurisdiction should not exercise while dealing with contractual matters where serious consequences entail as a result of entertainment of writ petition, unless there is improper exercise of power by public authority as observed in **Sanjay Kumar Shukla Vs BPCL and Others** reported in **2014(3) SCC 493**.

Contention of the Respondent No 6-

50. Learned Counsel appearing for the respondent No. 6 raises an objection as to the maintainability of the Writ Petition on the ground that the Order of Rejection dated March 18, 2024 is an appealable order under Rule 2(7) of Gas Cylinder Rules, 2000.

51. It is further submitted that the petitioner has an effective alternative remedy of filing an appeal against the impugned order.

52. The petitioner has only been granted prior approval for construction of the LPG godown premises. However, the petitioner has not yet complied with the required conditions and steps specified in the said approval. Therefore, the petitioner is not entitled to the grant of a PESO licence at this stage.

53. It is stated that the allocation has never been inspected physically, as no licence has been granted. Only the drawings of the premises have been approved, in the nature of prior approval and nothing more. It does not create any right or equity to claim distributorship. The requisite steps to be adhered to for obtaining a licence from the competent authority of PESO are as follows:-

- a) Prior approval has to be obtained in terms of the drawings of the premises.
- b) Upon completion and fulfilment of the requisite formalities, approval is granted in supersession of the prior approval. In the present Writ Petition, the formalities to be completed have been enumerated in Annexure P17 to the Writ Petition, in respect of which the petitioner has failed to give a comprehensive reply with regard to each and every condition of compliance.
- c) Thereafter, construction is to be carried out in terms of the approved plan.
- d) Licence shall thereafter, be granted subject to inspection of the constructed premises.
- e) The petitioner is required to apply for physical inspection of the constructed premises and for requisite endorsement thereof.

54. The impugned order dated March 18, 2024 passed by the Deputy Chief Controller of Explosive is amenable to appeal before the Chief Controller of Explosive as per Rule 2(7) of the Gas Cylinder Rule, 2017.

- 55.** It is contended that the construction approval of the LPG godown has been granted vide Office Approval No. A/G/EC/WB/06/1346 (40884) dated May 5, 2015 on receipt of the relevant documents.
- 56.** The petitioner subsequently applied for addition and/or alterations of land, size vide letter dated January 27, 2024 and the said proposal stood rejected for non-compliance with the statutory requirements.
- 57.** It is submitted that the petitioner has been required to comply with the mandatory requirements prescribed under the Gas Cylinder Rules, 2016 and the PESO Guidelines, before a licence could be granted by the competent authority. Mere grant of prior approval does not, by itself, confer any right to obtain a licence.
- 58.** The Letter of Intent issued at the pre-approval stage does not create any vested right and cannot be transferred. The petitioner has also failed to complete the required steps for obtaining the PESO licence, as noted in the discrepancy letters dated February 15, 2024 and March 19, 2024. The proposal dated January 27, 2024 for addition or alteration of the land has also been rejected for non-compliance with the applicable requirements. Therefore, the petitioner's request to transfer the Letter of Intent and the proposed PESO licence to his elder brother cannot be accepted.
- 59.** The construction approval and final grant of the LPG godown licence are governed by Rule 50(1), (2) and (3) of the Gas Cylinder Rules, 2016. PESO, being the licensing authority, found during inspection that the premises proposed by the petitioner did not comply with the conditions prescribed under Rule 50(4) and (5) of the Gas Cylinder Rules, 2016.

Analysis-

60. The moot question involved are as follows-

- (i) Whether the writ petition is maintainable under Article 226 of the Constitution of India, notwithstanding the availability of an alternative remedy?
- (ii) Whether the competent authority ought to have considered substitution of the petitioner by his elder brother, despite absence of total permanent disablement, by invoking the doctrine of reasonable accommodation.
- (iii) Whether the LOI issued at the pre approval stage can be transferred to the elder brother of the petitioner.

61. The preliminary objection raised by the respondents regarding maintainability of the instant writ petition needs to be considered at the threshold. The respondents contend that the petitioner is seeking enforcement of a right not recognised under the applicable PESO licensing provisions and that an efficacious alternative statutory remedy is available to him under Rule 2(7) of the Gas Cylinders Rules, 2016. Per contra, the petitioner submits that the impugned action is arbitrary, discriminatory and violative of the constitutional guarantees under Articles 14, 19(1)(g) and 21 of the Constitution, as well as the provisions of the Rights of Persons with Disabilities Act, 2016.

62. This Court finds that the petitioner is not a stranger to the lis, as he is the original selectee and has suffered legal injury due to his incapacitation and the consequent order of rejection. Therefore, the writ petition is maintainable, as the petitioner has the requisite locus standi

to challenge the order of rejection. It is well settled that the availability of an alternative remedy does not bar a writ petition where the action challenged is arbitrary and violates the constitutional guarantees and the provisions of the RPWD Act, 2016 which is a beneficial legislation.

63. The Supreme Court in **Ayaaubkhan Noorkhan Pathan v. State of Maharashtra** reported in **(2013) 4 SCC 465** held that "It is a settled legal proposition that a stranger cannot be permitted to meddle in any proceeding, unless he satisfies the authority/court that he falls within the category of aggrieved persons. Only a person who has suffered, or suffers from legal injury can challenge the act/action/order, etc. in a court of law."

64. It is not in dispute that the Letter of Intent specifically records that it shall not be construed as a 'firm offer' of LPG distributorship and that the respondent reserves the liberty to withdraw the same if the progress made by the petitioner is found to be unsatisfactory. The respondents, therefore, rightly contended that issuance of the Letter of Intent by itself does not create an indefeasible or vested right in favour of the petitioner to claim grant of distributorship or issuance of a PESO licence as a matter of course.

65. The Letter of Intent doesn't create vested right, at the intermediate stage. However, when petitioner takes substantial steps and crosses important stage of statutory scrutiny by obtaining prior approval dated May 5, 2015, licensing process substantially progressed. In such circumstances, mechanical rejection on ground that only prior approval granted and subsequent steps not complied, without considering disability or

beneficial legislation is arbitrary, violative of Article 14, 19(1)(g) and 21 of the Constitution of India.

66. In the present case, it is important to note that the petitioner has already acted upon the Letter of Intent and has taken substantial steps towards establishing the distributorship. The competent authority has also approved the site plan and drawings after being satisfied that the prescribed safety requirements have been complied with. This approval shows that the proposed premises have already undergone an important stage of statutory scrutiny. Although such approval does not amount to the grant of a PESO licence, it shows that the licensing process has substantially progressed. In these circumstances, the respondents are required to consider whether the petitioner's subsequent physical incapacitation due to disability brought the case within Clause 3.2 of the RGGLV Guidelines, which deals with death or total and permanent disability, and whether the petitioner is entitled to the benefit of the provisions of the RPWD Act, 2016.

67. The respondents appear to have proceeded on the assumption that the petitioner seeking transfer of an existing PESO licence. Such an approach is fundamentally misconceived. Admittedly, no PESO licence has yet been granted. Therefore, there is no existing licence which could be transferred. In substance, the petitioner is seeking substitution of the proposed licensee before the grant of the licence. The two situations—transfer of an existing licence and substitution of an applicant before the grant of a licence—are clearly different. The provisions relating to transfer of a licence can apply only after a licence has been granted. They cannot,

by themselves, be applied to a case where the licensing process is still pending and has not yet been completed.

68. A Letter of Intent (LOI) issued at the pre-approval stage does not, by itself, create any vested or enforceable right in favour of the holder. It only indicates the authority's intention to consider the applicant for grant of the final licence or approval, subject to fulfilment of the prescribed conditions. Until the statutory requirements are fulfilled and the competent authority grants the final approval, the holder of the LOI does not acquire any absolute or proprietary right.

69. The legal position is well settled that an LOI is distinct from a concluded contract or a final grant. In **Dresser Rand S.A. v. Bindal Agro Chem Ltd.**, reported in **(2006) 1 SCC 751** the Supreme Court of India held a letter of intent merely indicates a party's intention to enter into a contract with the other party in future. A letter of intent is not intended to bind either party ultimately to enter into any contract.

70. Applying the above principles to the present case, the LOI has been issued only at the pre-approval stage. The holder, therefore, has only a conditional expectation and not a transferable right. Such an expectation cannot be assigned or transferred unless the governing statute, rules, or the terms of the LOI expressly allow it. In administrative law, public authorities must act within the limits of the statute and the applicable rules. Therefore, any transfer made contrary to the statutory provisions would be without jurisdiction.

71. The Court in **State of Orissa v. Harinarayan Jaiswal** reported in **(1972)**

2 SCC 36 held that the fact that “the Government being the seller does not change the legal position once its exclusive right to deal with those privileges is conceded. If the Government is the exclusive owner of those privileges, reliance on Article 19(1)(g) or Article 14 becomes irrelevant. Citizens cannot have any fundamental right to trade or carry on business in the properties or rights belonging to the Government.”

72. Therefore, in the absence of any provision in the applicable Act, Rules, Government Policy, or the terms of the LOI permitting transfer at the pre-approval stage, the LOI issued in favour of the petitioner could not have been transferred to his elder brother. If the competent authority has permitted such a transfer, it would have acted beyond the powers conferred upon it by law. The elder brother, therefore, could not claim any legal right merely on the basis of the LOI issued in favour of the petitioner. Any claim based on such a proposed transfer is, accordingly, liable to be rejected.

73. The principle of reasonable accommodation, recognised under Section 2(y) of the Rights of Persons with Disabilities Act, 2016, requires public authorities to make necessary and reasonable changes so that a person with disability is not prevented from exercising his legal rights, unless such changes would cause a disproportionate or undue burden. In the present case, the petitioner is not seeking any relaxation of the statutory safety requirements. He only seeks permission for his elder brother to complete the remaining statutory formalities on his behalf because of his physical incapacity. Such a request does not affect public safety or place

any additional burden on the licensing authority. On the contrary, refusing to consider such a request would defeat the beneficial purpose of the 2016 Act.

74.In **Jeeja Ghosh v. Union of India** reported in **(2016) 7 SCC 761**, the Supreme Court recognized that “the rights that are guaranteed to differently abled persons under the Act, 1995 are founded on the sound principle of human dignity which is the core value of human right and is treated as a significant facet of right to life and liberty. Such a right now treated as human right of the persons who are disabled, has its roots in Article 21 of the Constitution. When public facilities and services are set on standards out of the reach of persons with disabilities, it leads to exclusion and denial of rights. Equality not only implies preventing discrimination (example, the protection of individuals against unfavourable treatment by introducing anti-discrimination laws), but goes beyond in remedying discrimination against groups suffering systematic discrimination in society. In concrete terms, it means embracing the notion of positive rights, affirmative action and reasonable accommodation.”

75.The respondents cannot claim unlimited power merely because the Letter of Intent states that it is not a firm offer. This clause only means that the petitioner does not get an automatic contractual right to the distributorship. It does not permit the respondents to act arbitrarily or relieve them of the duty to consider subsequent circumstances in accordance with law. Even where an authority has discretion under a contract or statutory provision, such discretion must be exercised

reasonably and fairly. Its decision remains amenable to judicial review if it is arbitrary, irrational, or based on irrelevant considerations.

76. Further, there is nothing on record to indicate that the proposed substitution would cause any prejudice to the licensing authority or affect public safety. The premises already approved remain the same. The approved layout, storage capacity, and technical safety requirements also remain unchanged. The only change sought is in the name of the applicant. Since no licence has yet been granted, such substitution would neither affect any vested right of a third party nor dilute the regulatory control of the authorities.

77. In the present case, the respondents have failed to show that allowing the petitioner's elder brother to be substituted would affect public safety or violate any express provision of law. The refusal is founded merely on the assumption that transfer or substitution at the pre-approval stage is impermissible. The respondents, however, have failed to consider the petitioner's subsequent physical incapacity in the light of the Rights of Persons with Disabilities Act, 2016, and the doctrine of reasonable accommodation.

78. This Court is, therefore, of the considered view that, although the Letter of Intent does not, by itself, confer any vested right to obtain the distributorship or a PESO licence, it does impose an obligation upon the respondents to consider the petitioner's request fairly, reasonably, and in accordance with law. Since no PESO licence has been granted, as yet, the question of transferring an existing licence does not arise. The respondents ought to have examined whether, in view of the petitioner's

subsequent physical incapacity and the fact that there has been no change in the approved premises or safety requirements, the petitioner's elder brother could satisfy the applicable statutory requirements and enable the licensing process to proceed in accordance with law. The failure to consider these circumstances makes the impugned decision arbitrary and unsustainable in law. The decision is also contrary to the object of the statutory scheme. This Court, therefore, finds it appropriate to interfere with the impugned decision in exercise of its power of judicial review under Article 226 of the Constitution of India.

79. Having heard the parties and upon perusing the materials available on record, this Court, holds that the competent authority ought to have considered the petitioner's request for grant or transfer of the PESO licence in favour of his elder brother on the basis of the petitioner's incapacitation, notwithstanding, the absence of total and permanent disablement, provided the proposed transferee fulfils all statutory requirements under the applicable licensing regime.

80. Accordingly, the impugned letter dated February 19, 2025 issued by the respondent no. 5 is liable to be set aside and the matter deserves to be remitted to the competent authority for reconsideration of the petitioner's request for substitution of his elder brother, upon examining the supervening circumstance of physical incapacitation in light of the beneficial mandate of RPWD Act of 2016 and for consequential processing of the LPG distributorship, in accordance with law, keeping in view the principles of fairness, non-arbitrariness, and reasonable accommodation.

81.In view of the above, the impugned letter dated February 19, 2025 passed by the respondent no. 5 is hereby quashed and set aside. The respondent is directed to revisit the issue involved herein and shall pass a well reasoned and speaking order in accordance with law upon affording opportunity of personal hearing to the petitioner, and other stake holders if any, to arrive at a logical conclusion, within a period of eight weeks from the date of communication of this order and communicate such a decision within a week thereafter. Till a fresh decision is taken, status quo with regard to the approved premises shall be maintained.

82.With the above observations and directions the writ petition **WPA 8308 of 2025** is allowed and disposed of. There shall, however, be no order as to costs.

83.Urgent Photostat certified copy of this order if applied for be supplied to the parties on priority basis upon compliance of all requisite formalities.

(Smita Das De, J.)