

**IN THE SUPREME COURT OF INDIA**  
**(Under Order Xxi Rule 3 (1) (A) of the S.C. Rules)**  
**CIVIL APPELLATE JURISDICTION**  
**SPECIAL LEAVE PETITION**  
**(UNDER ARTICLE 136 OF THE CONSTITUTION OF INDIA)**  
**SPECIAL LEAVE PETITION (CIVIL) NO.        OF 2018**  
**WITH PRAYER FOR INTERIM RELIEF**

**BETWEEN:**

**POSITION OF PARTIES**

**In the High Before this  
Court                      Court**

Karnataka Rajya Vikalachetnara Rakshana Samiti, A Society registered under The        Karnataka        Societies Registration Act, 1963 Having its registered address at: 3/6 1 <sup>st</sup> Floor, Madaliyar Compound II Main, Azad Nagar, Bangalore – 560018. Represented by its President, Sri. Chandrasekhar Putappa	Petitioner        Petitioner
---	------------------------------

AND

- |                                   |            |            |
|-----------------------------------|------------|------------|
| 1. Indian Oil Corporation         | Respondent | Contesting |
| Having its Karnataka              | No.1       | Respondent |
| State Office at:                  |            | No.1       |
| India Oil Bhavan,                 |            |            |
| No.29, Kalingarao Road,           |            |            |
| Mission Road,                     |            |            |
| Sampagi Ram Nagar                 |            |            |
| Bangalore – 560027                |            |            |
| Represented by its Chairman       |            |            |
| 2. Bharat Petroleum               | Respondent | Contesting |
| Having its Karnataka              | No.2       | Respondent |
| Head Office at                    |            | No.2       |
| 17, Duparc Trinity                |            |            |
| 7 <sup>th</sup> Floor, M.G. Road, |            |            |
| Bangalore – 560001                |            |            |
| Represented by its Chairman       |            |            |
| 3. Hindustan Petroleum            | Respondent | Contesting |
| Having its Regional Office at     | No.3       | Respondent |
| Subhash Chandra Nagar             |            | No.3       |
| SBI Colony, Belgaum               |            |            |
| Karnataka – 590006.               |            |            |
| Represented by its Chairman       |            |            |

- |    |  |            |            |
|----|--|------------|------------|
| 4. | Union of India                               | Respondent | Contesting |
|    | Ministry of Petroleum and                    | No.4       | Respondent |
|    | Natural Gas                                  |            | No.4       |
|    | 201-A Shastri Bhavan                         |            |            |
|    | New Delhi – 110001                           |            |            |
|    | Represented by its Joint Secretary           |            |            |
| 5. | Union of India                               | Respondent | Contesting |
|    | Ministry of Social Justice                   | No.5       | Respondent |
|    | and Empowerment                              |            | No.5       |
|    | Room No. 202, 2 <sup>nd</sup> Floor, C Wing, |            |            |
|    | Shastri Bhavan                               |            |            |
|    | New Delhi – 110001                           |            |            |
|    | Represented by its Joint Secretary           |            |            |

To

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

THE HUMBLE PETITION OF

THE ABOVE NAMED PETITIONER.

**MOST RESPECTFULLY SHOWETH:**

1. The present petition seeks to challenge the Impugned judgment and final order dated 31.08.2018 passed by the Hon'ble High Court of Karnataka at Bengaluru in Writ Petition

No. 1963 of 2018, whereby the Hon'ble High Court dismissed the Writ petition, filed as a Public interest litigation by the Petitioner against the Respondents, three State-owned oil companies (Respondent Nos. 1 to 3) and the Union of India (Respondent Nos. 4 and 5). The Hon'ble High Court dismissed the Writ Petition and upheld the Notification dated 17.08.2017 issued by the Respondent Nos. 1 to 3 inviting applications for selection of 238 Liquefied Petroleum Gas (LPG) Distributors in Karnataka, whereby only 6 distributorships had been reserved for persons with disabilities. The Hon'ble High Court failed to appreciate that the Respondents ought to have reserved 12 distributorships which would be 5% of the 238 LPG distributorships, as mandated under Section 37 of the Rights of Persons with Disabilities Act, 2016 which mandates 5% reservation in all poverty alleviation and various developmental schemes with priority to women with benchmark disabilities.

## **2. QUESTIONS OF LAW**

The following questions of law of public importance arise for consideration in the present petition:

- A. Whether the Hon'ble High Court failed to appreciate that Section 37 of the Rights of Persons with Disabilities Act 2016 ("RPD Act") requires 5% reservation in all poverty alleviation and development schemes for persons with benchmark

disabilities and that LPG distributorships are not purely commercial transactions, but are development schemes and welfare measures for poverty alleviation and economic empowerment, and hence there ought to be 5% reservation in the said distributorships for persons with benchmark disabilities with priority for women with disabilities as mandated under Section 37 of the Rights of Persons with Disabilities Act 2016?

- B. Whether the Hon'ble High Court erred in holding that the judgement of this Hon'ble Court in *Onkar Lal Bajaj and Ors. v. Union of India and Anr.* (2003) 2 SCC 673, would not be applicable despite the said judgement holding in the context of LPG distributorships that "it is apparent from the guidelines that the dealerships and distributorships were provided to be given to the allottees as a welfare measure" and hence the awarding of LPG distributorships by the Respondents should be recognised as development measures under Section 37 of the RPD Act?
- C. Whether the Hon'ble High Court failed to appreciate that the LPG distributorship scheme being the Rajiv Gandhi Gramin LPG Vitaran Yojana ("RGGLV" scheme) was a pro-poor scheme with several pro-poor features, including allotment of distributorships through local domiciles, mandatory inclusion of spouse and was launched keeping in mind the larger public

interest and hence it cannot be held that this scheme would not fall under a development and poverty alleviation scheme under Section 37 of the RPD Act?

- D. Whether the Hon'ble High Court failed to appreciate that the non-reservation of 5% posts for persons with disabilities is violative of Section 37 of the Rights of Persons with Disabilities Act, 2016, in view of the fact that the award of LPG distributorships includes several poverty alleviation features including providing employment opportunities as was held by the Hon'ble High Court of Punjab and Haryana in *All India LPG Distributors Fed. (Punjab) v. Union of India*, 2014 SCC Online P & H 10630, and deserves to be set aside?
- E. Whether the Hon'ble High Court erred in holding that the LPG distributorship scheme was not a welfare measure, despite giving a finding that the supply chain by way of LPG distributorships were indeed welfare measures as it created employment and earning opportunities and would therefore fall under poverty alleviation and developmental schemes?
- F. Whether the Hon'ble High Court erred in holding that the LPG distributorship scheme was not a poverty alleviation scheme as the element of poverty alleviation is only with regard to the consumers and not with respect to the distributors, which is factually incorrect. While the LPG scheme aims to provide

LPG to the most backward and rural households, the element of poverty alleviation and economic welfare is not to the consumers who are receiving LPG connections but to the distributors who are earning on every LPG connection that they are able to generate and thus earn a livelihood. For persons with disabilities, this is a major form of poverty alleviation and development for a stable livelihood and hence would require 5% reservation as mandated under Section 37 of the RPD Act?

- G. Whether the Hon'ble High Court erred in holding that while LPG distributorships being a welfare measure leading to manifold empowerment and all round development, it cannot be termed as a notified scheme for poverty alleviation and development under Section 37 of the RPD Act thereby giving a very narrow and restricted interpretation to "poverty alleviation and developmental schemes" under Section 37?
- H. Whether the Hon'ble High Court failed to appreciate that poverty alleviation schemes are not only those which remove various deprivations of necessities of a particular class of persons or whereby basic necessities are made available to persons in need, but should be understood in a broader context where measures that would provide basic livelihood and earning to persons with disabilities would lead to poverty

alleviation and development and would fall under the definition of Section 37 of the RPD Act?

- I. Whether the Hon'ble High Court erred in holding that the 3% reservation that is already been provided in the LPG distributorship scheme for persons with disabilities cannot be co-related to Section 37 of the RPD Act despite acknowledging that this reservation was in view of the welfare aspect of the distributorships and holding that this 3% reservation only indicates the Respondent Oil Companies' prima facie attention to the requirements of persons belonging to various classes and categories and that no mandamus for 5% reservation can be issued?
- J. Whether the Hon'ble High Court erred in holding that the said distributorships were only taken up by the Respondents No.1 to 3 and were not a "notified" scheme issued by the appropriate Government or local authorities, and failed to appreciate that such distributorships were issued under the mandate of the Respondent No.4 government which is an 'appropriate government under Section 2(b) of the RPD Act?
- K. Whether the High Court erred in holding that the award of LPG distributorships did not contain any element of poverty alleviation except by way of benefits to consumers, even



though such award of distributorships creates employment, earning opportunities and empowerment for the distributors?

L. Whether the Hon'ble High Court failed to appreciate that the Rights of Persons with Disabilities Act, 2016, the successor to the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 is a beneficial legislation that ought to be fully implemented by the Government and local authorities and cannot be allowed to remain on paper by giving strict technical interpretations thereby defeating the purpose of the law, as was held by this Hon'ble Court in *Justice Sunanda Bhandare Foundation v. Union of India*, (2014) 14 SCC 383?

M. Whether the Hon'ble High Court failed to appreciate that LPG distributorships should fall within Section 37 of the RPD Act as they are poverty alleviation and developmental measures and out of the 238 distributorships to be awarded 5% amounting to 12 distributorships should be reserved for persons with benchmark disabilities with priority for women, instead of just 6 distributorships being reserved for persons with disabilities and that there can be no exception for reservation in the "Durgam Kshetriya Vitrak" Scheme which is in the difficult or hilly regions for persons with disabilities as being unsuitable for them, in view of the fact that Section 8.C.b. of the Unified Guidelines for Selection of LPG Distributors specifies the

eligibility requirements for Divyang/Physically Handicapped (PH) Category and states that “Applicants eligible under ‘SC/ST’, ‘OBC’ and ‘Open’ category as specified above can apply for Sheheri Vitrak, Rurban Vitrak, Gramin Vitrak and DKV type of LPG Distributorship under respective ‘PH’ sub-category,” and hence deserves the intervention of this Hon’ble Court?

- N. Whether the Hon’ble High Court failed to appreciate that as per Section 37 of the RPD Act, the Respondents are under a legal mandate to notify schemes in favour of persons with benchmark disabilities and must provide, among other things listed under Section 37, 5% reservation to persons with disabilities in all poverty alleviation developmental schemes, giving priority to women with benchmark disabilities and the impugned Notification and Guidelines in reserving only 6 of the 238 advertised posts for appointment of LPG Distributors in Karnataka and not reserving 5% of the distributorships which amount to 12 distributorships being reserved for persons with disabilities, is therefore violative of the provisions of Section 37 of the RPD Act?
- O. Whether the Hon’ble High Court failed to appreciate that the action of the Respondents in not providing concessions to persons with disabilities in the impugned Notification and Guidelines, being concessions in the application fee of Rs.

10,000/-, concessions in the security deposit of Rs. 5,00,000/-, concessions of relaxation of upper age limit which is listed to be 60 years, and concessions in terms of providing financial assistance of loans and payment of margin money, is in violation of the provisions of Section 37 (c) which mandates providing land at concessional rates and also Section 19 of the RPD Act which specifically provides for provision of loans at concessional rates to persons with disabilities and ought to have passed specific directions in this regard instead of merely asking the Petitioner to make representations when such representations were already made and concessions were not provided?

- P. Whether the Hon'ble High Court failed to appreciate that the Office Memoranda issued by the central government which directs that persons with disabilities in all government employment are entitled to relaxation of the upper age limit and the same is also provided in section 34 of the RPD Act and ought to have passed orders directing that in the present distributorships such relaxation for persons with disabilities ought to be provided, when such relaxation of upper age limit was there was other applicants but not for persons with disabilities?
- Q. Whether the Hon'ble High Court failed to appreciate that as held in *Union of India v. National Federation of the Blind and*

Ors. (2013) 10 SCC 772 the predecessor of the RPD Act being the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 is a social legislation enacted for the benefit of persons with disabilities and its provisions must be interpreted so as to fulfill this objective and the failure to provide 5% reservation in addition to age relaxation and concessional rates of application fee as well as financial assistance to persons with disabilities violates the rights of persons with disabilities?

R. Whether the Hon'ble High Court failed to appreciate that while the Respondents had provided concessions in the entire application and selection process such as reduced application fee, reduced security deposit and financial assistance including the provision of loans and payment of margin money of upto Rs. 1 Lakh for other categories of persons such as SC/ST persons, no such concessions are provided to persons with disabilities and that this amounts to discrimination and is arbitrary and unreasonable and a violation of the guarantee of equality of persons with disabilities under Article 14 of the constitution?

S. Whether the Hon'ble High Court failed to appreciate that not providing adequate reservation of 5% in the LPG distributorships and not granting concessions would lead to persons with disabilities not being able to be appointed as

distributors because without adequate concessions and reservation they would not be able to compete with the other candidates and not earn a livelihood and would amount to a violation of their rights to equality and the right to life under Articles 14 and 21 of the constitution and hence deserves the intervention of this Hon'ble Court?

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

The Petitioner states that no other petition seeking leave to appeal has been filed by the present Petitioner against the impugned order dated 31.08.2018 passed by the Hon'ble High Court of Karnataka at Bangaluru in Writ Petition No. 1963 of 2018(GM-RES-PIL).

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

The Annexures P-1 to P-11 produced along with Special Leave Petition are true and correct copies of the pleadings/documents which formed part of the records of the case in the courts below against whose orders the leave to appeal is sought for in the petition.

### **5. GROUNDS**

The Petitioner approaches this Hon'ble Court against the order and judgment of the Karnataka High Court at Bangalore (Civil Appellate Jurisdiction) dated 31<sup>st</sup> August, 2018 in Writ Petition

No. 1963 of 2018 on the following, amongst other, grounds, which are without prejudice to one another: -

- A. That the Hon'ble High Court failed to appreciate the judgment of this Hon'ble Court in the case of *Onkar Lal Bajaj and Ors. v. Union of India and Anr.* (2003) 2 SCC 673 which considered the cancellation of the allotments made with respect to LPG distributorships, retail outlets and SKO-LDO dealerships. In that case, guidelines providing for the selection of the candidates included reservations in each of the distributorship categories for applicants in SC/ST, OBC, freedom fighters and physically handicapped, and also 33% reservation for women in each category. The Hon'ble Court held that the cancellation of the allotments led to a large number of people being deprived of their livelihood since:

“45....It is apparent from the guidelines that the dealerships and distributorships were provided to be given to allottees as a welfare measure. Even in respect of the Open category, there was a limitation for the income of the applicant being not more than 2 lakhs per annum so as to be eligible for consideration by DSBs. The DSBs are required to consider the applications within the parameters of the guidelines and select the best applicant...”

B. That in the present case as well, the impugned Unified Guidelines for Selection of LPG Distributorships 2017 published by the Respondent No.4 makes similar provisions, albeit inadequate, for reservation for SC/ST, OBC, defence personnel and physically handicapped persons. Moreover, schemes of financial assistance are provided for SC/ST applicants. It is submitted that the award of LPG distributorships assists persons with disabilities to come out of poverty and earn a sustained livelihood where they fulfil the eligibility criteria. That for the same reason, many such distributorships are also reserved for persons in other categories including SC/ST, OBC persons, freedom fighters and defence personnel. That it is well made out that the award of LPG distributorships is a welfare measure to help alleviate poverty and hence the same would fall under the ambit of Section 37 of the RPD Act providing for 5% reservation in “poverty alleviation and various development schemes”.

C. That the Hon’ble High Court of Karnataka erred in holding that:

“22. ... Even when the laudable objectives, including those of women empowerment, creating rural employment opportunities, and raising LPG population are taken as the welfare measures, while keeping in mind larger public interest, it is difficult yet to consider that the award of LPG distributorship is a ‘poverty alleviation’ scheme.

23. ... The supply chain by way of LPG distributorships, no doubt, is of welfare measures, where on one hand employment and earning opportunities are created and at the same time, the Liquefied Petroleum Gases reaches even to the Below Poverty Line (BPL) families. However, if any element of poverty alleviation is at all to be seen in such award of distributorship, that only refers to the consumers and not the distributors.”

- D. That the Hon’ble High Court failed to appreciate the holding of the Hon’ble High Court of Punjab and Haryana in the case of *All India LPG Distributors Fed. (Punjab) v. Union of India*, 2014 SCC Online P & H 10630 that the Rajiv Gandhi Gramin LPG Vitran Scheme (for short ‘RGGLV’), where it held that:

“11. ... the RGGLV Scheme was started in the year 2009. Out of total 6713 LPG distributorships advertised under this Scheme, around 2341 have already been commissioned. In addition to the above figure, the Scheme has pro- poor features including release of LPG connection to BPL families with funding of security deposit from CSR funds of OMCs, allotment of distributorship to the local (Panchayat) domiciles, women empowerment through mandatory partnership of spouse etc. 38.8 lakh LPG customers, including 1.42 lakh BPO families, have been enrolled through these distributorships up to 01.07.2013...In the light of the



above discussion and the law laid down by the Hon'ble Supreme Court, this Court is of the view that the RGGLV Scheme has been launched while keeping in mind the larger public interest.”

- E. That the Hon'ble High Court failed to appreciate that the pro-poor features of the RGGLV Scheme are not limited only to the customers of LPG among the rural population but also the distributors. Furthermore, the Respondent No. 4 also reaffirms that the scheme is intended to boost employment opportunities in the rural areas. In a statement on its website, (<http://petroleum.nic.in/marketing/schemes/lpg-schemes>), it states:

**“RAJIV GANDHI GRAMIN LPG VITARAN YOJANA**

The ‘Vision-2015’ adopted for LPG Sector inter-alia focuses on raising the population coverage of LPG with the focus on rural areas and areas where LPG coverage is low. The Vision-2015 envisages to achieve 75% population coverage in the country by releasing 5.5 crore new LPG connections by 2015 especially in rural areas and under-covered areas. To achieve this objective a new scheme called Rajiv Gandhi Gramin LPG Vitaran Yojana (RGGLV) was launched in 2009 for setting up small size LPG distribution agencies. The scheme also provided new employment opportunities for the rural population leading to overall economic prosperity.”

F. That the Hon'ble High Court failed to appreciate that welfare purpose of the RGGLV scheme which was further reiterated in the press, wherein it was been stated that:

“Under the Scheme, appointment of dealers would be based on the condition that the concerned individual must make his wife a partner in the business. A bachelor would be asked to give an undertaking that he would make his wife a partner after marriage. The idea is to empower rural women by providing them financial independence and the opportunity to grow.” [“LPG Dealership scheme to empower rural women”, The Hindu dated March 19, 2010]

...

“The Ministry of Petroleum and Natural Gas has issued a new set of Guidelines for LPG distributorship and made 33% reservation for women and 3% for Divyangs. According to Union Minister of State Petroleum and Natural Gas, Dharmendra Pradhan, these guidelines are prepared with the objective of strengthening LPG supply chain, with focus on rural areas and creating job opportunities through the supply chain system... setting up of these new distributorships will give a tremendous boost to the rural employment opportunities, Mr. Pradhan added.” [“Women to get 33 pc reservation in

LPG distributorship”, United News of India dated June 3, 2016]

...

“A total of 309 Lol were handed over by OMCs to new LPG distributors during the event. The distributors were selected through a transparent merit-based system. For dealership, there is a provision for financial assistance to SC/ST candidates through bank loan, margin money, and working capital loan, with easy instalment schedule under the corpus fund scheme. This will usher in an era of socio-economic empowerment and employment generation for youth of Uttar Pradesh.” [“MoPNG distributes 2309 Lol for new LPG distributorships in Lucknow”, Indian Oil News magazine, Vol. LIV, Issue 9 dated September 2017]

- G. That the Hon’ble High Court of Karnataka has failed to consider that the award of LPG distributorships is a twin measure of poverty alleviation and development, which benefits the rural and poor population through providing access to LPG connections, but also seeks to provide employment opportunities and livelihood to the rural poor population. This is evident from the fact that the impugned LPG allotments and the Unified Guidelines themselves make reservation for the following categories: SC/ST – 22.5%, OBC-27% and within these categories, there are further sub-

categories of reservation for the following: Government employees – 8%, Persons with disabilities – 3%, Sports Persons and Freedom Fighters – 1%, women – 3%. It is submitted that if this was purely a business or commercial venture, there would not be any reservation at all provided by the Respondents and certainly not the extent of 49.5% overall reservation for various categories. That in light of the same, the award of LPG distributorships falls within the ambit of Section 37 of the RPD Act, 2016 and ought to therefore provide for 5% reservation for persons with disabilities.

H. That the Hon'ble High Court has failed to appreciate that whether or not the award of LPG distributorships is a notified scheme, the Rights of Persons with Disabilities Act, 2016 the successor to the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 is a beneficial legislation that ought to be fully implemented by the Government and local authorities and cannot be allowed to remain on paper thereby defeating the purpose of the law, as was held by this Hon'ble Court in Justice Sunanda Bhandare Foundation v. Union of India, (2014) 14 SCC 383 where it was held:

“9. ... Be that as it may, the beneficial provisions of the 1995 Act [“Persons with Disabilities(Equal Opportunities, Protection of Rights and Full Participation) Act 1995”] cannot be allowed to remain only on paper for years and

thereby defeating the very purpose of such law and legislative policy. The Union, States, Union Territories and all those upon whom obligation has been cast under the 1995 Act have to effectively implement it. As a matter of fact, the role of the governments in the matter such as this has to be proactive. In the matters of providing relief to those who are differently abled, the approach and attitude of the executive must be liberal and relief oriented and not obstructive or lethargic. A little concern for this class who are differently abled can do wonders in their life and help them stand on their own and not remain on mercy of others. A welfare State, that India is, must accord its best and special attention to a section of our society which comprises of differently abled citizens. This is true equality and effective conferment of equal opportunity.”

That hence, the Hon’ble High Court ought to have intervened to ensure that the award of LPG distributorships in Karnataka adhered to the legislative purpose and mandate of the RPD Act, 2016 which is the successor to the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995.

I. That the Hon'ble High Court failed to appreciate that the 3% reservation for persons with disabilities has already been confirmed by the Hon'ble Madras High Court. A Division Bench of the Madras High Court in *Tamil Nadu Differently Abled Federation Charitable Trust v. Secretary, Ministry of Petroleum and Natural Gas & Ors.*, W.P. No. 3399/2014 dated 19.12.2014 held that:

“4. ...In terms of the avowed object of the said Act and in view of the admission in the affidavit that the Government on a larger plain thus wants a reservation for person with disability, especially when a scheme has to be provided for reservation in all other categories, it must be ensured that if the category is maintained as it is per the guidelines, a minimum of 3% out of this 4% category should go exclusively for the benefit of persons with disability”

A Division Bench of the Madras High Court in *P. Perumal v. Union of India & Ors.*, W.A. No. 904/2016 dated 22.07.2016 upheld the direction of the same court in *Tamil Nadu Differently Abled Federation Charitable Trust*, W.P. No. 3399 of 2014.

J. That the Hon'ble High Court failed to appreciate that with the entry into force of the Rights of Persons with Disabilities Act, 2016, Section 40 of the PWD Act which mandated 3% reservation was replaced by the corresponding Section 37 of

the RPD Act, which mandates that 5% reservation shall be made in all poverty alleviation and developmental schemes. There is no definition as to what constitutes 'poverty alleviation and developmental schemes' under the RPD Act. Hence its plain English meaning would have to be taken. When the current LPG Schemes under the RGGLV Scheme which provides distributorships to people for the purpose of improving their livelihoods within urban and rural areas, Difficult and Special areas, with a special focus on SC/ST and OBC and also provides for concessional terms for loans, security deposit and reduced application fees, there can be no doubt that this is a developmental scheme by the government to generate livelihood and alleviate poverty. In this scheme therefore, 5% of the distributorships ought to be reserved for persons with disabilities under Section 37 of the RPD Act.

- K. That the Hon'ble High Court mis-appreciated the facts and upheld the contention of the Respondents that 31 distributorships of the total 238 are 'Durgam Kshetriya Vitrak' (DKV) locations, which are difficult or hilly regions, and unsuitable for persons with disability, and after taking them out, 3% of the remainder 207 distributorships i.e. 6 distributorships have been reserved for persons with disabilities. However, as per the Respondents' own Unified Guidelines for Selection of LPG Distributors, persons with

disability are eligible to apply for DKV locations. Section 8, Sub-section C, paragraph b of the Guidelines states:

“b. Divyang/ Physically Handicapped (PH) Category  
Applicants eligible under ‘SC/ST’, ‘OBC’ and ‘Open’ category as specified above can apply for Sheheri Vitrak, Rurban Vitrak, Gramin Vitrak and DKV type of LPG distributorship under respective ‘PH’ sub-category...”

L. That the reservation of only 6 distributorships for persons with disability contravenes the Respondents’ own guidelines for selection and in fact 3% of distributorships amounts to 7 posts that ought to have been allotted for persons with disabilities. Furthermore, the Respondents have provided no basis for why DKV locations are “not suitable for persons with disability”. Merely because DKV locations are in hilly regions or difficult areas does not lead to a conclusion that persons with disability are unable to carry out a business of LPG distributorship as compared to persons in other sub-categories. It is submitted that there is no logical reason for why persons with disabilities must be excluded from Durgam Kshetriya Vitrak locations provided they meet all the eligibility requirements. Such an exclusion is manifestly arbitrary and unreasonable and thereby violative of Article 14 of the Constitution.



M. That the Hon'ble High Court erred in not making a specific finding that the Unified Guidelines issued for Selection is violative of the RPD Act, 2016 and Article 14 of the Constitution, in failing to provide concessions in application fee, security deposit and financial assistance to persons with disabilities, although the same is provided to other categories of persons such as SC/ST persons. That the Hon'ble High Court further erred in not making a specific finding that the failure of the Respondents to comply with the Office Memoranda dated 28.01.1978 and 03.12.1985 issued by the Union of India, directing the upper age limits for persons of disabilities be relaxed, and granting concessions for application fees was violative of the RPD Act and Article 14 of the Constitution.

N. That the Hon'ble High Court failed to appreciate that in addition to reservations not being adequately provided for persons with disabilities, the impugned guidelines also do not provide for adequate concessions in the entire application and selection process for persons with disabilities, as is done for freedom fighters, SC/ST persons and other categories of applicants. The concessions provided to other and not to persons with disabilities include concessions in application fee, concession in security deposit and scheme for financial assistance upto Rs.1 lakh. That this action of the Respondents is violative of Section 19 of the RPD Act which specifically

provides for provision of loans at concessional rates to persons with disabilities especially for self-employment.

- O. That Hon'ble High Court failed to appreciate the fact that the Respondent No.5 Union of India had issued Office Memorandum dated 28.01.1978 directing that the upper age limits of persons with disabilities shall be relaxed up to ten years for appointment to all Group C and Group D posts. That Respondent No.5 thereafter issued Office Memoranda dated 03.12.1985 directing that physically handicapped persons would be exempted from the payment of application fees pertaining to Group C and Group B non-gazetted posts whether by recruitment through examination or selection.
- P. That the Hon'ble High Court failed to consider that while the Respondents have provided concessions in the entire application and selection process for other categories of persons including SC/ST persons, no such concessions have been provided to persons with disabilities. The same amounts to discrimination and is arbitrary and unreasonable and a violation of the right to equality of persons with disabilities under Article 14 of the Constitution.
- Q. That the Hon'ble High Court failed to appreciate that the Respondents, by failing to provide relaxation of the upper age limit for persons with disabilities have disregarded the Office

Memoranda issued by the central government and Section 34 of the RPD Act which mandates the relaxation of age limit for persons with disabilities. In the instant Notification and Guidelines, there is no upper age limit for applicants who are freedom fighters, but no similar relaxation has been provided for persons with disabilities, thereby violating the RPD Act and the Office Memoranda. Further, by treating persons with disabilities, who are as vulnerable and marginalized economically as freedom fighters, if not more, as a different class that is not deserving of similar concessions, the Respondents have acted arbitrarily and without any reasonable basis. Hence, this Hon'ble Court ought to intervene to ensure that persons with disabilities are not treated arbitrarily and in violation of their right to equal treatment under Article 14 of the Constitution.

- R. That the Hon'ble High Court failed to appreciate that the action of the Respondents in not providing adequate reservation of 5% in LPG distributorships and not granting concessions would lead to persons with disabilities not being able to be appointed as distributors because without adequate concessions and reservation they would not be able to compete with other candidates and earn a sustained livelihood, thereby violating their rights under Article 14 and Article 21 of the Constitution.

- S. That the Hon'ble High Court erred in not striking down the Notice dated 17.08.2017 issued by the Respondent Nos. 1, 2 and 3 which only reserved 3% of the 238 available LPG Distributorships for persons with disability, thereby violating Section 37 of the Rights of Persons with Disabilities Act, 2016, the right to livelihood under Article 21, and also Articles 14 and 16 of the Constitution of India, which guarantee equality and equal opportunity in public employment.
- T. That the Hon'ble High Court erred in not passing appropriate directions against the Respondent Nos. 1,2 and 3 for not reserving 5% of the LPG distributorships in Karnataka for persons with disability, and which is arbitrary and in violation of Article 14 and in violation of the guarantee of equal opportunities in public employment under Article 16 of the Constitution.
- U. That presently, the Respondent No.1 has already allotted 13 distributorships in Karnataka, in contravention of the Hon'ble High Court's interim order dated 09.02.2018 staying all further action pending the disposal of the petition. Similarly, the Respondent No.2 has already allotted 9 distributorships in Karnataka, also in contravention of the order dated 09.02.2018. That further, the Respondent Nos. 1 to 3 have called for re-draw of lots for appointment of LPG Distributors in 41 locations in Karnataka vide an advertisement dated

25.09.2018 and will soon allot further distributorships without reserving the required 5% for persons with disabilities.

## **5. GROUNDS FOR INTERIM RELIEF**

A. It is submitted that pending disposal of this petition, unless the process of selection and allotment of LPG distributorships pursuant to the Notification dated 17.08.2017 is stayed, it would render the entire petition infructuous.

B. It is submitted that the Hon'ble High Court had also issued an interim order dated 09.02.2018 during the pendency of the writ petition staying the selection process. Presently the selection process for the appointment of LPG Distributors has already commenced and the Respondent No.1 has appointed 13 distributors and the Respondent No.2 has appointed 9 distributors already. This selection process is being carried on in violation of the provisions of the RPD Act as the Respondents have failed to provide 5% reservation of the 238 distributorships for persons with disabilities and have not given any of the concessions for application fee, security deposit, relaxation of age, or any financial assistance for persons with disabilities in the scheme for appointment of LPG Distributors in the State of Karnataka.

C. That further, the Respondent Nos. 1 to 3 called for re-draw of lots for appointment of LPG Distributors in 41 locations in

Karnataka vide an advertisement dated 25.09.2018. That the ongoing selection process is directly affecting the interests of persons with disabilities and unless stayed, would this petition infructuous.

D. If these reservations and concessions are not granted and the appointments of the LPG distributors are made, the present petition would become infructuous and persons with disabilities would suffer immeasurable harm by being deprived of their rights under the RPD Act and their fundamental rights under the constitution. If selections are made without filling up 12 distributorships from persons with disabilities, they would be deprived of these posts that they are entitled to, and also third party rights of other candidates would be created. Therefore it is crucial that this Hon'ble Court be pleased stay the final appointments of the 238 LPG distributors till the pendency of proceedings under this petition.

E. That already, as of 01.08.2018, 22 distributorships were allotted by the Respondent Nos.1 and 2 despite the interim order of the Hon'ble High Court dated 09.02.2018 which stayed the selection. Following the pronouncement of the impugned judgment dated 31.08.2018, on 25.09.2018 the Respondent Nos. 1 to 3 also called for re-draw of lots for appointment of LPG Distributors in 41 locations, further prejudicing the rights of persons with disabilities. On the other

hand, if the selection process is stayed, no prejudice will be caused to the Respondents. The balance of convenience is therefore in favour of the Petitioner for grant of interim relief as is prayed hereinafter.

**7. MAIN PRAYER:**

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

- a. Grant special leave to appeal against the final order and judgment dated 31.08.2018 passed by the Hon'ble High Court of Karnataka at Bangalore in Writ Petition No. 1963 of 2018;
- b. Pass such other order(s) or direction(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

**8. INTERIM RELIEF:**

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

- a. Stay the final appointment of the 238 LPG Distributors by the Respondents No. 1, 2 and 3 as called for under the Notification dated 17.8.2017 and the Guidelines; and

b. pass any other such orders which the Hon'ble Court deems fit in the circumstances of the case in the interests of justice and equity.

**AND FOR THIS ACT OF KINDNESS, THE PETITIONER AS  
IN DUTY BOUND SHALL EVER PRAY**

DRAWN BY

Jayna Kothari

FILED BY:

(ANINDITA PUJARI)

(Advocate for the Petitioner)

New Delhi

DRAWN ON:

FILED ON:



**IN THE SUPREME COURT OF INDIA**

**CIVIL APPELLATE JURISDICTION**

SPECIAL LEAVE PETITION (CIVIL) No. \_\_\_\_ OF 2018

**IN THE MATTER OF: -**

Karnataka Rajya Vikalachetnara

Rakshana Samiti

... PETITIONER

VERSUS

Indian Oil Corporation & Ors.

... RESPONDENTS

**CERTIFICATE**

Certified that the special leave petition is confined only to the pleadings before the court whose order is challenged and the other documents relied upon in those proceedings. No additional facts, documents or grounds have taken therein or relied upon the Special Leave Petition. It is further certified that the copies of the documents attached to the special leave petition are necessary to answer the question of law raised in the petition or to make out grounds urged in the special leave petition for consideration of this Hon'ble Court. The certificate is given on the basis of the instructions given by the petitioner whose affidavit is filed in support of the present special leave petition.

New Delhi

FILED BY

Date:

Anindita Pujari

ADVOCATE FOR THE PETITIONER