

**Orders of appellate authority for month of March, 2023 have
been placed as per serial number mentioned as under:-**

S.NO	APPLICANT's NAME	JHUGGI NO.	APPEAL NO.	APPEAL DATE	DATE OF ORDER	REMARKS
1	REENA DEV NATH W/O HARI KISHAN	C-390	179/2022	23.11.2022	02.03.2023	REJECTED
2	BABITA W/O PAWAN KUMAR	B-404	637/2023	28.12.2022	02.03.2023	REJECTED
3	VIKRAM SINGH S/O ROHTAS	B-245	662/2023	30.11.2022	02.03.2023	REJECTED
4	RUMA GHORAI W/O MANORANJAN	A-212	644/2023	30.12.2022	02.03.2023	REJECTED
5	ANITA W/O DEEPAK D/O LAXMAN	B-585	22/2022	18.11.2022	03.03.2023	REJECTED
6	SHER SINGH S/O PARAS NATH SINGH	C-202	169/2022	23.11.2022	03.03.2023	REJECTED
7	YASEEN S/O MOHD. ILYAS	D-45	175/2022	23.11.2022	03.03.2023	REJECTED
8	VASIM S/O SATTAR KHAN	C-664	727/2023	23.02.2023	03.03.2023	REJECTED
9	RAJ KUMAR S/O BAIJ NATH	A-137	609/2023	23.11.2022	07.03.2023	REJECTED
10	ANIL KUMAR S/O SUBEDAR	C-109	377/2023	29.11.2022	07.03.2023	REJECTED
11	VIDYA JHA D/O GHANSHYAM JHA	C-100	378/2023	29.11.2022	07.03.2023	REJECTED
12	AJAY KUMAR S/O BAIJ NATH	A-137	140/2022	22.11.2022	07.03.2023	REJECTED
13	SANJEEV BAIDYA S/O CHANDI BAIDAYA	C-404	150/2022	22.11.2022	09.03.2023	REJECTED
14	IMRAN KHAN S/O IMTYAZ KHAN	D-200	164/2022	23.11.2022	09.03.2023	REJECTED
15	ASTOMI BHADUR W/O TEK BAHADUR	A-229	245/2023	23.11.2022	09.03.2023	REJECTED
16	CHANDAN BAIDYA S/O CHANDI BAIDA	C-404	244/2023	23.11.2022	09.03.2023	REJECTED
17	SAVITRI W/O OM PRAKASH D/O RISHAL SINGH	D-220	161/2022	23.11.2022	10.03.2023	ALLOWED

18	HARI KISHAN S/O OM PARKASH	D-220	162/2022	23.11.2022	10.03.2023	REJECTED
19	FIROZ AHMAD S/O LALLAN	D-14	166/2022	23.11.2022	10.03.2023	REJECTED
20	URMILA W/O DHARAM DAS D/O HARISHANKAR	A-306	192/2022	23.11.2022	10.03.2023	REJECTED
21	SANJU W/O RAJ KUMAR D/O SANKAR SHA	A-142	81/2022	21.11.2022	13.03.2023	REJECTED
22	LILA DEVI W/O DURGA NATH PATHAK	A-12	132/2022	22.11.2022	13.03.2023	REJECTED
23	DEEPAI PRAMANIK W/O DINESH D/O VIJAY MUNIA	B-677	154/2022	23.11.2023	13.03.2023	REJECTED
24	PREETI BURMAN W/O RAHUL BURMAN	B-541	186/2022	23.11.2022	13.03.2023	REJECTED
25	BABLU KUMAR S/O RAMJEET SINGH	D-101	78/2022	21.11.2022	14.03.2023	REJECTED
26	MEENA W/O RAJ KUMAR D/O KANNAUJI	B-523	184/2022	23.11.2022	14.03.2023	REJECTED
27	AJAY KUMAR S/O SH. MURARI LAL	C-351	298/2023	25.11.2022	14.03.2023	REJECTED
28	RAKESH MANDAL S/O NARAYAN MANDAL	C-25	449/2023	29.11.2022	14.03.2023	REJECTED
29	JAY PARKASH S/O RAM DEV	A-152	87/2022	21.11.2022	15.03.2023	REJECTED
30	SANTOSHI DHURIYA W/O SANTOSH D/O GANGA PRASAD	C-451	155/2022	23.11.2022	15.03.2023	REJECTED
31	SATYADEV S/O SHIV MANAGAL	C-451	156/2022	23.11.2022	15.03.2023	REJECTED
32	DIPANKAR S/O BASU DEV	B-677	353/2023	29.11.2022	15.03.2023	REJECTED
33	SACHIN KUMAR S/O HARBANS PRASAD	A-1	69/2022	21.11.2022	16.03.2023	REJECTED
34	SATISH KUMAR S/ HARBANS PRASAD	A-1	118/2022	22.11.2022	16.03.2023	REJECTED
35	MUHID S/O LALLAN	D-14	368/2023	29.11.2022	16.03.2023	REJECTED
36	MOHD. SIRAZUDDIN S/O MOHD. SAYAD	B-14	696/2023	31.01.2023	16.03.2023	REJECTED

37	BISHAJEET SARKAR S/O AMAR SARKAR	B-634	64/2022	21.11.2022	17.03.2023	REJECTED
38	MOHAN SARKAR S/O AMAR SARKAR	B-634	65/2022	21.11.2022	17.03.2023	REJECTED
39	RAM IQBAL PASWAN S/O RAM SEWAK	B-80	223/2023	23.11.2022	17.03.2023	REJECTED
40	JANMANJAY SAMANTA S/O JAWAHAR LAL SAMANTA	D-113	259/2022	24.11.2022	17.03.2023	REJECTED
41	RAMBIR S/O MAKHAN SINGH	B-45	242/2023	23.11.2022	20.03.2023	REJECTED
42	NAINA W/O JAGPAL D/O PHOOL PAL	B-45	243/20223	23.11.2022	20.03.2023	REJECTED
43	TOMPA MANDAL W/O SANJEEV MANDAL	B-116	288/2023	25.11.2022	20.03.2023	REJECTED
44	SAPNA MANDAL W/O PRADEEP MANDAL D/O JAGDISH BISWAS	B-116	410/2023	29.11.2022	20.03.2023	REJECTED
45	MONIE BURMAN S/O HARIPAD	A-209	227/2022	23.11.2022	21.03.2023	REJECTED
46	VINAY KUMAR S/O NAGENDRA PRASAD	B-191	272/2023	25.11.2022	21.03.2023	REJECTED
47	PAWAN KUMAR DAS S/O SUBAL DAS	C-425	276/2023	25.11.2022	21.03.2023	REJECTED
48	SAPAN DAS S/O SUBAL DAS	C-425	589/2023	07.12.2022	21.03.2023	REJECTED
49	SHIV KUMAR S/O VIJAY BAHADUR	A-140/A	141/2022	22.11.2022	22.03.2023	REJECTED
50	NIRANJAN KANDAR S/O GURPAD KANDAR	B-269	144/2022	22.11.2022	22.03.2023	REJECTED
51	RAJESH KUMAR S/O RAM BAHADUR	A-141	226/2023	23.11.2022	22.03.2023	REJECTED
52	RAM LAL PARJAPATI S/O RAM SHANKAR PARJAPATI	A-136	296/2023	25.11.2022	22.03.2023	REJECTED
53	RAJAN DAS S/O RATAN DAS	C-153	105/2022	22.11.2022	23.03.2023	REJECTED
54	MAMTA BAR W/O SHAKTI PADA BAR	A-370	191/2022	23.11.2022	23.03.2023	REJECTED

55	SATYAVATI W/O JAGDISH	D-105	216/2023	23.11.2022	27.03.2023	REJECTED
56	SIKHA W/O RAJ SHEK	B-632	246/2023	23.11.2022	27.03.2023	REJECTED
57	PANKAJ KUMAR S/O VIRENDER SAH	D-580	214/2023	23.11.2022	28.03.2023	REJECTED
58	KAILASH CHAND S/O KALI CHARAN	B-268	275/2023	25.11.2022	28.03.2023	REJECTED
59	HARE KISHAN S/O UDAY GHOSH	B-633	505/2023	02.12.2022	28.03.2023	REJECTED
60	MANGAL KARAN S/O SH. LAKHAN KARAN	B-656	154/2022	23.11.2022	29.03.2023	REJECTED
61	PINTOO DAS S/O SAPAN DAS	C-420	434/2023	29.11.2022	29.03.2023	REJECTED
62	PINTOO DAS S/O SAPAN DAS	C-420	434/A/2023	29.11.2022	29.03.2023	REJECTED
63	SATISH KUMAR SHRIVASTAVA S/O GANESH PRASAD	B-87/2	570/2023	06.12.2022	31.03.2023	REJECTED
64	SANJEEV BHADRA S/O SAMIRAN BHADRA	C-248/B	558/2023	06.12.2022	31.03.2023	REJECTED
65	NEELAM W/O CHANDAN KUMAR SAH	C-751	574/2023	06.12.2022	31.03.2023	REJECTED
66	KUNDAN KUMAR SHA S/O NAND KUMAR SHAH	C-480	600/2023	08.12.2022	31.03.2023	REJECTED
67	SUNIL KUMAR S/O BIHARI LAL	C-537	47/2022	24.11.2022	31.03.2023	REJECTED
68	MOHINI W/O MUKESH	B-300	257/2023	24.11.2022	31.03.2023	REJECTED
69	MAHENDER KUMAR S/O CHANDAR BHAN	B-550	555/2023	06.12.2022	31.03.2023	ALLOWED
70	KASHMIR LAL S/O RAM SINGH	B-300	256/2023	24.11.2022	31.03.2023	REJECTED

**BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE
GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JI
DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.**

Appeal No: 179 of 2022

Date of Institution: 23.11.2022

Date of Order: 02.03.2023

Present: Appellant/ Claimant Reena Dev Nath W/o Hari Kishan D/o Pavitra Das

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. C-390, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-390 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer,


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Bhoomiheen Camp, duly communicated its order bearing No. 385/37/25.1/1002 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 179 of 2022 has been filed by the present Appellant/ Claimant.

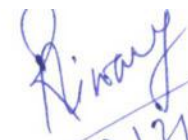
3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 20.02.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-390 was found to exist on the upper floor but she had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

7. The statement of the Appellant/ Claimant, Reena, has been recorded before us on 20.02.2023, wherein she has stated that her in-laws, Nivaran Dev & Jyosna, are having three


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sons, namely, Ajit Dev, Ranjeet Dev & Hari Kishan and two daughters, namely, Geeta & Seeta. Nivaran Dev has expired about 35 years ago and Jyosna about 40 years ago. Ajit Dev is married with Savita and he is living on rent in Delhi. Ranjeet Dev is married with Pinki and having one son Gaurav. Hari Kishan is married with Reena (Appellant/Claimant) and having one son, Shubham. Geeta & Seeta are also married and they are living in their respective matrimonial homes in Govind Puri and Jaitpur.

8. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. C-390 and it comprised of one room on each floor. The upper floor is not having independent access from the gall but an iron/wooden ladder has been placed inside the room on the ground floor for going to the upper floor.
9. The Appellant/Claimant has stated that Ranjeet Dev along with his wife Pinki & son Gaurav is living in the room on the ground floor of the said Jhuggi No. C-390 and DDA has made allotment in favour of Pinki against the said Jhuggi. These facts are not disputed by DDA.
10. The Appellant/Claimant has stated that she along with her husband Hari Kishan & son Shubham is living in the room on the first floor of the said Jhuggi No C-390. The Appellant/Claimant has also sought allotment from DDA against the first floor of the said Jhuggi No. C-390 but her claim has been wrongly rejected by DDA and aggrieved by the same she has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure-K, and prayed that DDA be directed to make allotment in her favour.
11. DDA has furnished the survey records along with three video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 20.02.2023 wherein she has stated that in the two video clips her sister-in-law Pinki is seen in the room on the ground floor and her room/kitchen is also seen and furthermore an iron/wooden ladder is seen placed inside the room on the ground floor and it is going to the upper floor. Further in the third video clip the room and kitchen on the first floor of the Appellant/Claimant is seen. The Appellant/Claimant has further clarified that her room on the first floor is not accessible from the gall but it could be accessed from inside the ground

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floor where a ladder has been placed inside the room on the ground floor for going to the first floor's room of the Appellant/Claimant.

12. It is pertinent to point out that the Appellant/ Claimant has specifically stated that her family is having a double storey Jhuggi No. C-390 and the room on the first floor is not having independent access from the gali but the iron/wooden ladder placed inside the room on the ground floor has been used for going to the first floor. Thus the admission of the Appellant/Claimant is a clincher piece of evidence and it is also corroborated by the video clips furnished by DDA thereby showing that the upper floor is not having independent access from the gali but the iron/wooden ladder placed inside the room on ground floor has been used for going to the upper floor thereby making both the floors to be part & parcel of one dwelling unit. One allotment has already been made by DDA against the said Jhuggi No. C-390 in favour of her sister-in-law, Pinki W/o Ranjeet Dev. Therefore, the Appellant/Claimant is not eligible to claim second allotment against the same dwelling unit as two allotments are not permissible against the one dwelling unit as per the policy guidelines issued by DDA.
13. Accordingly, we have no hesitation in holding that the Jhuggi No. C-390 is a pucca double storey structure and its ground & first floors are the part & parcel of the same dwelling unit bearing Jhuggi No. C-390 regarding which DDA has already made allotment in favour of Pinki W/o Ranjeet Dev. Two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA and accordingly the Appellant/ Claimant is not entitled to claim second allotment against the first floor of that very Jhuggi No. C-390. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.
14. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the present Appellant/Claimant was having all the required documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

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15. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-K, in support of her claim and prayed that DDA be directed to make allotment in her favour.
16. It is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a Ration Card issued. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/37/25.1/1002 dated 07.11.2022.
17. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.

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6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the 1.1 dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/11 dwellers from Govt. School or certificate with photograph is used by


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the Principal of a Govt. School mentioning therein that the descendants of the ii dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part—B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part—B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

20. Thus Part—B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

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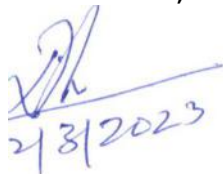
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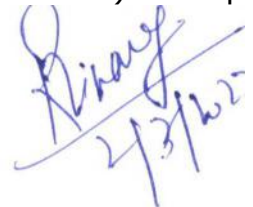
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GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of ii dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
22. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
23. The Appellant/Claimant has admitted that she is not having a separate Ration Card on the address of first floor of the Jhuggi No. C-390 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered joint Ration Card (Annexure-I), which has been issued in the name of her sister-in-law, Pinki W/o Ranjeet Dev and further the date of issuance is also not mentioned. However, the name of the family members, including that of the present Appellant/Claimant, have been mentioned. But the fact remains that the Appellant/Claimant was not having a separate ration card issued on the address of first floor of Jhuggi No. C-390 regarding which she is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.
24. The Appellant/Claimant has tendered her Voter ID Card bearing number ARE 1184910 (Annexure-A) issued on 27.10.2008, Aadhar Card (Annexure-B), Pan Card (Annexure-C) & Passport (Annexure-G) as well as the Voter ID Card bearing number CXY 1340439 (Annexure-D) issued on 22.09.2002, Aadhar Card (Annexure-E), Pan Card (Anneure-F) & Passport


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(Annexure-G) of her husband Hari Kishan and the Voter List of the year 2014 (Annexure-J) & the Voter List of the year 2019 (Annexure-K).

25. It is pointed out that Voter ID Card bearing number ARE 1184910 (Annexure-A) has been issued on 27.10.2008, much prior to the cutoff date of 01.01.2015 and the name of the Appellant/Claimant appears at SI. No. 434 in the Voter List of the year 2014 (Annexure-J) and at SI. No. 447 in the Voter List of the year 2019 (Annexure-K). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
26. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Furthermore, the ground & first floors of the Jhuggi No. C-390 are not found to be separate & independent dwelling units but are found to be part & parcel of the same dwelling unit regarding which DDA has already made allotment in favour of her sister-in-law, Pinki W/o Ranjeet Dev and accordingly two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant cannot claim allotment against the first floor of Jhuggi No. C-390 because of the reason that two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA and further she was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.
27. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 85/37/25.1/1002

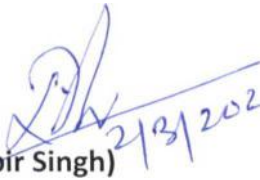
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dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

- 28.** Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.



(Ranbir Singh)

Jt. Secretary (Retd.) GOI
MEMBER



(Satish Ahlawat)

Addl. District & Sessions Judge (Retd.)
CHAIRMAN



(Rachna Tiwary)

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALICAJI.

Appeal No: 637of 2023

Date of Institution: 28.12.2022

Date of Order: 02.03.2023

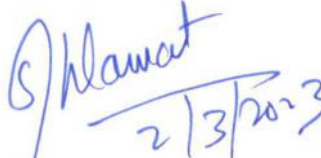
Present: Appellant/ Claimant Babita (since deceased) widow of Pawan Kumar D/o Bhopal Singh through her legal heir Pravin (son) S/o Pawan Kumar along with Khoob Kalan

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/ Claimant Babita (since deceased) widow of Pawan Kumar D/o Bhopal Singh through her legal heir Pravin (son) S/o Pawan Kumar along with Khoob Kalan against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. B-404, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-404 was found to exist on the upper floor but she had failed to


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submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/26/128.G/882 dated 07.11.2022 to the legal heirs of the present Appellant/ Claimant, who has since died on 04.03.2020. Aggrieved by the same, the present Appeal No. 637 of 2023 has been filed by her legal heir Pravin (son) S/o Pawan Kumar along with Khoob Kalan.

3. In response to the notice, Pravin, legal heir of the present Appellant/ Claimant, Babita (since deceased) along with Khoob Kalan has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of Khoob Kalan has been recorded before us on 13.02.2023 and she has tendered documents Annexure- A to Annexure- L, in support of the claim of the present Appellant/ Claimant, Babita (since deceased). DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by Pravin, legal heir of the present Appellant/ Claimant, Babita (since deceased) along with Khoob Kalan as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-404 was found to exist on the upper floor but she had failed to submit required documents, i.e., Voter ID Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to the legal heirs of the present Appellant/ Claimant, Babita (since deceased), who has since died on 04.03.2020 by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the present appeal has been filed before us by the Appellant/ Claimant Babita (since deceased) widow of Pawan Kumar D/o Bhopal Singh through her legal heir Pravin (son) S/o Pawan Kumar against order dated 07.11.2022 passed by the Eligibility Determination Committee.

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Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID card and a separate Ration Card, on the cut-off date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

7. Khoob Kalan is the mother-in-law of the Appellant/ Claimant Babita (since deceased). The statement of Khoob Kalan has been recorded before us on 13.02.2023, wherein she has stated that she is married with Gulab Singh and having four sons, namely, Pawan, Manoj, Vinod & Babloo. All the children except Pawan are unmarried. Pawan was married with Babita (Appellant/ Claimant) and having two children, namely, Pravin & Tannu. Babita had expired on 04.03.2020 and Pawan had expired on 01.08.2019 and their respective death certificates are Annexure-F & Annexure-G.
8. Khoob Kalan has stated that she is having a double storey Jhuggi No. B-404 but the rooms on the first floor was not having independent access from the gali but the bamboo ladder placed inside the room on the ground floor was used for going to the first floor. Khoob Kalan has stated that she along with her husband Gulab Singh as well as all her three unmarried sons, Manoj, Vinod & Babloo has been living on the ground floor of the said Jhuggi No. B-404 and regarding that DDA has made allotment in her favour. These facts are not disputed by DDA.
9. Khoob Kalan has stated that her son Pawan along with his wife Babita & both the children was living on the first floor of the said Jhuggi No. B-404 and regarding that his wife Babita has sought allotment from DDA. But her claim has been rejected by DDA and aggrieved by the same, the present Appeal No. 637 of 2023 has been filed by her legal heir Pravin (son) S/o Pawan because Babita had died on 04.03.2020 and her death certificate is Annexure-F. Khoob Kalan has also tendered documents, Annexure-A to Annexure L, and prayed that DDA be directed to make allotment in favour of Babita (since deceased).
10. DDA has furnished the survey records along with six video clips. The video clips were played before Khoob Kalan when her statement was recorded before us on 13.02.2023

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wherein she has stated that in four video clips Pravin son of Babita is seen on the Jhuggi on the first floor whereas in two video clips she is seen in the Jhuggi on the ground floor and further bamboo ladder placed inside the room on the ground floor for going to the upper floor is also seen. It is pertinent to point out that Khoob KaIan has specifically stated that her family is having a double storey Jhuggi No. B-404 and the rooms on the first floor is not having independent access from the gali but the bamboo ladder placed inside the room on the ground floor was used for going to the first floor. Thus the admission of the Appellant/Claimant is a clincher piece of evidence and it is also corroborated by the video clips furnished by DDA thereby showing that the upper floor was not having independent access from the gali but the bamboo ladder placed inside the room on ground floor has been used for going to the upper floor thereby making both the floors to be part & parcel of one dwelling unit. Thus the statement of the Appellant/Claimant as well as the survey records/video clip has duly proved that the double storey pucca Jhuggi No. B-404 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and both the floors are found to be part & parcel of one dwelling unit. The facts placed on file shows that DDA has already made allotment in favour of Khoob Kalan, who is the mother-in-law of the Appellant/ Claimant Babita (since deceased) against Jhuggi No. B-404. Two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA. But the Appellant/ Claimant Babita (since deceased) in collusion with her family members has tried to get maximum allotments from DDA by hook or crook by concocting a wrong & false story that she was living separately & independently on the first floor of the said Jhuggi No. B-404.

11. Accordingly, we have no hesitation in holding that the Jhuggi No. B-404 is a pucca double storey structure and both the floors are found to be part & parcel of one dwelling unit and regarding which DDA has already made allotment in favour of of Khoob KaIan, who is the mother-in-law of the Appellant/ Claimant Babita (since deceased). Two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA. Therefore, the Appellant/ Claimant Babita (since deceased) does not fulfill the eligibility criteria as per the guidelines issued by DDA.

12. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the present Appellant/ imant Babita (since

deceased) was having all the required documents, including a valid Voter ID card and a separate Ration Card, on the cut-off date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

13. Khoob Kalan has stated that the claim of the Appellant/ Claimant Babita (since deceased) has been wrongly rejected by DDA. Khoob Kalan has tendered documents, Annexure-A to Annexure-L, in support of the claim of the Appellant/ Claimant Babita (since deceased) and prayed that DDA be directed to make allotment in her favour.

14. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a Ration Card issued and further both the floors of Jhuggi No. B-404 are found to be part & parcel of one dwelling unit and regarding Jhuggi No. B-404 DDA has already made allotment in favour of Khoob Kalan, who is the mother-in-law of the Appellant/ Claimant Babita (since deceased). Two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/26/128.G/882 dated 07.11.2022.

15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

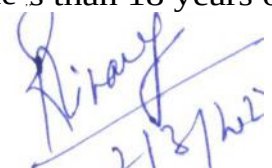
The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.



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2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.


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- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

**DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor)
AS PER DDA POLICY**

16.As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17.As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18.Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claimin allotment against

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upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

19.The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

20. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID card and a separate Ration Card, on the cut-off date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

21.Khoob Kalan has tendered the Voter ID Card No. ARE 1155456 (Annexure-A) & Aadhar Card (Annexure-B) of Babita (since deceased) as well as the Voter ID Card No. CXY 1072842 (Annexure-C) & Aadhar Card (Annexure-D) of Pawan deceased, who is the husband of the Appellant/ Claimant Babita (since deceased), the Aadhar Card of Pravin (Annexure-I), the Aadhar Card of Tannu (Annexure-J), the Voter List of the year 2014 (Annexure-K) and the Voter List of the year 2014 (Annexure-L). The documents shows that the Appellant/ Claimant Babita (since deceased) was having a valid Voter ID card

on the cut-off date of 01.01.2015 and her name also appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

22. Khoob Kalan has stated that the Appellant/Claimant Babita (Since deceased) was not having a separate Ration Card on the address of first floor of the Jhuggi No. B-404 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered joint Ration Card (Annexure-H), which has been issued in her (Khoob Kalan) name but date of issuance is not mentioned. In the joint Ration Card (Annexure-H) the names of the family members including the name of the husband of Babita, are mentioned but the name of the present Appellant/Claimant is also not mentioned. But the fact remains that the Appellant/Claimant Babita (Since deceased) was not having a separate ration card issued on the address of first floor of jhuggi No. B-404 regarding which she is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.
23. The material placed on file shows that the Appellant/ Claimant Babita (since deceased) was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 and further both the floors of Jhuggi No. B-404 is found to be part & parcel of one dwelling unit and regarding Jhuggi No. B-404 DDA has already made allotment in favour of Khoob Kalan, who is the mother-in-law of the Appellant/ Claimant Babita (since deceased), therefore, two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant Babita (since deceased) does not fulfill the eligibility criteria as per the guidelines issued by DDA.
24. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant Babita (since deceased) does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/26/128.G/882 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

25.Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Satish Ahlawat)

(Rachna Tiwary)

Jt. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

**BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE
Gh EVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ
DW4LERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.**

Appeal No: 662 of 2023

Date of Institution: 30.11.2022

Date of Order: 02.03.2023

Present: Appellant/ Claimant Vikram Singh Sb o Rohtash

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-245, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Jhuggi bearing No. B-245 was found to be used for commercial purposes accordingly the Appellant/ Claimant was not entitled for alternate allotment as per the policy guidelines. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated


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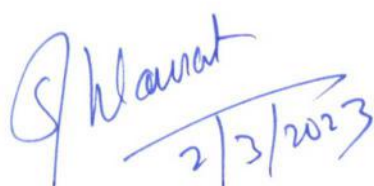
its order bearing No. 385/59/81.G/1198 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 662 of 2023 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 15.02.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-245 was found to be used for commercial purposes and accordingly he was not found entitled for alternate allotment as per the policy guidelines. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be "**Commercial**" and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant's Jhuggi bearing No. 8-245 was found to be exclusively used for commercial purposes and accordingly the present Appellant/Claimant is not entitled for alternate allotment as per the policy guidelines.

7. Therefore, it has to be first seen as to what is the legal position with regard to running of shop under the policy guidelines issued by DDA. First of all, we shall discuss the


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legal position under the DDA policy. The Part-B of the Delhi Slum and 11 Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.


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As envisaged in para above, the IJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

8. The statement of the Appellant/ Claimant, Vikram, has been recorded before us on 15.02.2023, wherein he has stated that his parents, Rohtash & Asharfi, are having one son, Vikram (Appellant/ Claimant) and one daughter, Poonam. Vikram is married with Babita and having two sons, Rohit & Anshul. Poonam is living in her matrimonial home in Tughlakabad, Delhi. Rohtash has died since long ago.
9. The Appellant/ Claimant has stated that his family was having two Jhuggis bearing Nos. B-245 and B-371. His mother Asharfi is living in single storey Jhuggi No. B-245 and regarding that DDA has made allotment in favour of his mother Asharfi. These facts are not disputed by DDA.
10. The Appellant/ Claimant has stated that the second Jhuggi No. B-371 is also a single story structure and it is situated on the main road from where he is running a footwear

shop. The said Jhuggi was demolished in the year 2006 and no compensation was paid to him. He reconstructed the same and opened the footwear shop. But he was not allowed to raise construction on the first floor of the said Jhuggi by the police. Therefore he constructed a "Night Shelter" by making walls of the "Chatai" and covering the same with "Tirpal" because the police did not allow him to construct a pucca room on the first floor. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi No. B-371. But his claim has been rejected by DDA and aggrieved by the same he has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure I, and prayed that DDA be directed to make allotment in his favour.

11.DDA has furnished the survey records along with four video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 15.02.2023 wherein he has stated that in two video clips his mother Asharfi is seen in her Jhuggi No. B-245. Whereas in the other two video clips he (Vikram-Appellant/Claimant) along with his wife Babita is seen in the footwear shop in Jhuggi No. B-371 and further the "Night Shelter" made with "Chatai" and covered with "Tirpal" is seen on the first floor and the said structure is not having any walls.

12.The condition contained in Part-B Paras No. 8 & 9 of DDA policy runs as under:

"8.No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose."

"9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person."

13.The admission of the Appellant/Claimant is the clincher piece of evidence and it shows that he is running a footwear shop on the ground floor of Jhuggi No. B-371 and there is no pucca structure on the roof of the said Jhuggi. The Appellant/ Claimant has specifically stated that the Jhuggi No. B-371 is a single story structure and it is situated on the main road where he is running a footwear shop. The said Jhuggi was


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demolished in the year 2006. He had reconstructed the same and opened the footwear shop but he was not allowed to raise construction on the first floor of the said Jhuggi by the police. It is pertinent to point out that the Appellant/Claimant has not given the date, month and year of the construction of the jhuggi. However, the Appellant/Claimant has categorically admitted that he had constructed a "Night Shelter" by making walls of the "Chatai" and covering the same with "Tirpal" because the police did not allow him to construct a pucca room on the first floor. The said structure is also seen in the video clips furnished by DDA and the same cannot be said to be covered under the definition of Jhuggi/dwelling unit. The "Night Shelter" is a make shift structure as it is not having any walls and roof but the walls are made with "Chatai" and covered with "Tirpal". The Appellant/ Claimant has categorically admitted that the Jhuggi No. B-371 is a single story structure and it is situated on the main road where he is running a footwear shop. Thus the statement of the Appellant/Claimant as well as the survey records/video clip has duly proved that Jhuggi No. B-371 is a single storey for all the purposes and making "Night Shelter" on the first floor does not make it double storey structure and accordingly the said "Night Shelter" on the first floor cannot be said to be a dwelling unit. Further the said single storey Jhuggi No. B-371 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 but the Appellant/Claimant has been running a footwear shop and accordingly using the same exclusively for commercial purposes.

14. It is also pertinent to point out that the Appellant/ Claimant has stated that his family was having two Jhuggis bearing Nos. B-245 and B-371. His mother Asharfi is living in single storey Jhuggi No. B-245 and regarding that DDA has made allotment in favour of his mother Asharfi. The Appellant/ Claimant has been running a footwear shop in the second Jhuggi No. B-371, which is situated on the main road. The Appellant/ Claimant has tendered his Voter ID Card No. CXY 1072826 (Annexure-A), which has been issued on 06.03.2002 on the address of Jhuggi No. B-245 of his parents. His Aadhar Card is Annexure-B and that of his wife Babita is Annexure-G and both the Aadhar Cards have been issued on the address of Jhuggi No. B-245 of his parents. But the Appellant/ Claimant was so desperate to get allotment from DDA that he got the address changed from Jhuggi No. B-245 to Jhuggi No. B-371 and got fresh Voter ID Card No. CXY

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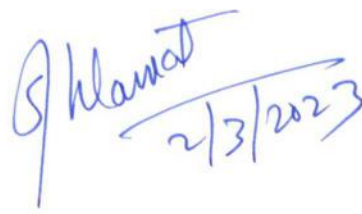
1072826 (Annexure-D) issued on 16.12.2022, much after the cutoff date of 01.01.2015. And with this malafide intention the address on his Aadhar Card and that of his wife were also got changed Jhuggi No. B-245 to Jhuggi No. B-371 by getting fresh Aadhar Cards, Annexure-E & Annexure- H, issued. Not only this but the Appellant/ Claimant has also got Voter ID Card No. ARE 2217792 (Annexure-F) of his wife Babita issued on the address of Jhuggi No. B-371 on 11.11.2022, much after the cutoff date of 01.01.2015. This further shows that the Appellant/ Claimant with dishonest and fraudulent intention has got the documents prepared on the address of Jhuggi No. B-371 with an intention to grab allotment from DDA by hook or crook inspite of the fact that the Appellant/Claimant has been running a footwear shop from Jhuggi B-371 and accordingly using the same exclusively for commercial purposes. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

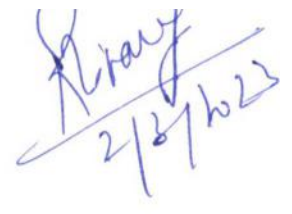
15. The material placed on file as well as the statement of the Appellant/ Claimant shows that on the cutoff date of 01.01.2015 the Jhuggi No. B-371, regarding which the Appellant/ Claimant has sought allotment from DDA, has been exclusively used as shop for commercial purposes. The documents, Annexure-A to Annexure-I, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because the Appellant/ Claimant's Jhuggi bearing No. B-371 has been found to be used exclusively for commercial purposes and accordingly the Appellant/Claimant is not entitled for alternate allotment as per the policy guidelines.

16. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. B-371 regarding which the Appellant/ Claimant has sought allotment from DDA has been exclusively used as shop for commercial purposes on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

17. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order


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bearing No. 385/59/81.G/1198 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

18. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.



(R. Singh)

Jt. Secretary (Retd.) GOI

MEMBER



(Satish Ahlawat)

Addl. District & Sessions Judge (Retd.)

CHAIRMAN



(Rachna Tiwary)

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 644 of 2023

Date of Institution: 30.12.2022

Date of Order: 02.03.2023

Present: Appellant/ Claimant Ruma Ghorai W/o Manoranjan

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

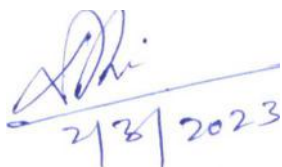
1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. A-212, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-212 was found to exist on the ground floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/67/45.G/1521 dated 07.11.2022

to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 644 of 2023 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 13.02.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-212 was found to exist on the ground floor but she had failed to submit required documents, i.e., Voter ID Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card not verified"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

7. The statement of the Appellant/ Claimant, Ruma Ghorai, has been recorded before us on 13.02.2023, wherein she has stated that she is married with Manoranjan and having three daughters, namely, Supriya, Tumpa and Jumpha.


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8. The Appellant/ Claimant has stated that her family is having a triple storey Jhuggi No. A-212 but the rooms on the first & second floors were not having independent access from the gali but the iron ladder placed inside the room on the ground floor was used for going to the first floor. The Appellant/ Claimant has sought allotment from DDA against the said Jhuggi No. A-212. But her claim has been rejected by DDA and aggrieved by the same she has filed the present Appeal before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure I, and prayed that DDA be directed to make allotment in her favour.
9. DDA has furnished the survey records along with one video clip. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 13.02.2023 wherein she has stated that in the video clip she (Ruma Ghorai Appellant/Claimant) is seen in her Jhuggi and further iron ladder placed inside the room on the ground floor for going to the upper floor is also seen.
10. It is pertinent to point out that the Appellant/ Claimant has specifically stated that her family is having a triple storey Jhuggi No. A-212 and the rooms on the first & second floors were not having independent access from the gali but the iron ladder placed inside the room on the ground floor was used for going to the first floor. Thus the admission of the Appellant/Claimant is a clincher piece of evidence and it is also corroborated by the video clip furnished by DDA thereby showing that the upper floor was not having independent access from the gali but the iron ladder placed inside the room on ground floor has been used for going to the upper floor thereby making all the three floors to be part & parcel of one dwelling unit.
11. Thus the statement of the Appellant/Claimant as well as the survey records/video clip has duly proved that the triple storey pucca Jhuggi No. A-212 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and all the three floors are found to be part & parcel of one dwelling unit and further the Appellant/Claimant has been using the said Jhuggi for residential purposes.
- 12. Accordingly,** we have no hesitation in holding that the Jhuggi No. A-212 in Bhoomiheen Camp is a pucca triple storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and all the three floors are part & parcel of one dwelling unit and the Appellant/Claimant has been using the said Jhuggi for residential purposes.

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13. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

14. **The** Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-G, in support of her claim and prayed that DDA be directed to make allotment in her favour.

15. **First** of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.


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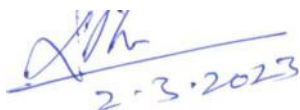

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9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the IJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

16.The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and


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he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

17. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

18. The Appellant/Claimant has tendered her two Voter ID Cards No. ARE 1949055 (Annexure-A & Annexure-B), Aadhar Card (Annexure-C) and Pan Card (Annexure-D).

19. It is pointed out that both the Voter ID Cards No. ARE 1949055 (Annexure-A & Annexure-B) are bearing same number ARE 1949055. But the first Voter ID Card (Annexure-A) has been issued on the address of her father Madan Mohan bearing no. 775/T/F, Gali No. 7, Govind Puri, Kalkaji on 23.03.2014. This shows that Voter ID Card (Annexure-A) is not relevant, as the same has been issued on some other address and not on address of Jhuggi No. A-212 regarding which the Appellant/Claimant is claiming allotment from DDA.

20. It is pointed out that the second Voter ID Card (Annexure-B) has been issued on the address of A-212 on 25.10.2021, much after the cutoff date of 01.01.2015. Accordingly, the question of her name appearing in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey on the address of A-212, does not arise. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 issued on the address of Jhuggi No. A-212 regarding which she is claiming allotment from DDA and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

21. The Appellant/Claimant has tendered her Passport (Annexure-E), Pass Book of SBI (Annexure-F), the Aadhar Card (Annexure-G) of her husband Ma ranja , Electricity


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Bill (Annexure-H) and the Ration Card (Annexure-I). It is pointed out that the Passport (Annexure-E) has been issued on 22.12.2021, much prior the cutoff date of 01.01.2015. The Pass Book of SBI (Annexure-F) shows that the account was opened on 08.12.2010. Further, the Aadhar Card (Annexure-G) of her husband Manoranjan is not relevant to determine the eligibility of the present Appellant/Claimant. The Electricity Bill (Annexure-H) shows that the electricity connection has been taken by the present Appellant/Claimant on 04.02.2020, much after the cutoff date of 01.01.2015. The Ration Card (Annexure-I) shows that it has been issued in favour of the present Appellant/Claimant on 18.05.2022, much prior the cutoff date of 01.01.2015. The documents, Annexure-E to Annexure-I, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 issued on the address of Jhuggi No. A-212 regarding which she is claiming allotment from DDA and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22.The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 issued on the address of Jhuggi No. A-212 regarding which she is claiming allotment from DDA and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents, Annexure-A to Annexure-I, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 issued on the address of Jhuggi No. A-212 regarding which she is claiming allotment from DDA and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

23.The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has

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rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/67/45.G/1521 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

- 24. Copy** of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.


 (Ranbir Singh) 2/3/2023

(Satish Ahlawat)


 2/3/20

(Rachna Tiwary)


 2/3/20

Jt. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 22 of 2022

Date of Institution: 23.11.2022

Date of Order: 03.03.2023

Present: Appellant/ Claimant Anita W/o Deepak D/o Laxman

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. in brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. B-585, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-585 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/10/72.G/708 dated 07.11.2022 to the present Appellant/C1 • ant. A grieved by

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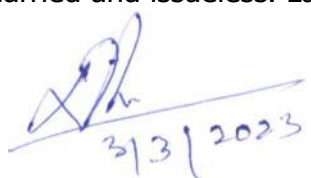
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the same, the present Appeal No. 22 of 2022 has been filed by the present Appellant/Claimant.

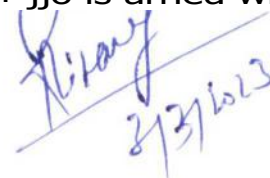
3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 15.02.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing B-585 was found to exist on the upper floor but she had failed to submit required documents, i.e., a separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

7. The Appellant/Claimant has stated that her parents, Laxman & Kamla, are having one son, namely, Azad and four daughters, namely lata, Rajjo, Sunita & Anita. Azad has died unmarried and issueless. Laxman has expired about 20 years ago. jjo is arried with


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Sunil and she is living in her matrimonial home in Chattar Pur. Lata is married with Sudhir. Sunita was married with Rakesh but Rakesh has expired and now she is living with her mother Kamla. Anita (Appellant/Claimant) is married with Deepak and having three children.

8. The Appellant/Claimant has stated that her sister Lata is married with Sudhir and she has been living separately in Jhuggi No. B-626, Bhoomiheen Camp and regarding that DDA has made allotment in favour of Lata. These facts are not disputed by DDA.

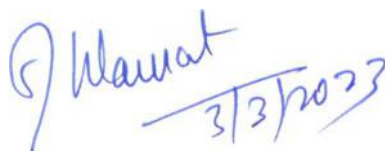
9. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. B-585. Her mother Kamla along with her widow daughter Sunita is living on the ground floor of Jhuggi No. B-585 and regarding that DDA has made allotment in favour of Kamla. These facts are not disputed by DDA.

10. The Appellant/Claimant has also stated that she along with her husband Deepak and three children, is living on the first floor of the said Jhuggi bearing Jhuggi No. B-585. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. B-585 but her claim has been wrongly rejected by DDA and aggrieved by the same she has filed the present Appeal for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-K, in support of her claim and prayed that DDA be directed to make alternative allotment in her favour as per the policy guidelines issued by DDA.

11. DDA has furnished the survey records along with eight video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 15.02.2023 wherein she has stated that in three video clip her mother Kamla is seen in the Jhuggi on the ground floor whereas in the other five video clips she (Anita-Appellant/Claimant) is seen in her Jhuggi on the first floor of Jhuggi No. B-585 and the staircase going to the first floor is also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca double storey Jhuggi of the family of the Appellant/Claimant bearing Jhuggi No. B-585 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/ Claimant & her family used the first floor of the said Jhuggi for residential purposes.



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12. Accordingly, we have no hesitation in holding that the Jhuggi No. B-585 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further the Appellant/ Claimant & her family have been using the first floor of the said Jhuggi No. B-585 for residential purposes.
13. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.
14. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make allotment in her favour.
15. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015 but having a joint Ration Card with her mother Kamla. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/10/72.G/708 dated 07.11.2022.
16. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B


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The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the 11 dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.

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- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST **SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY**

17.As per Part- B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING **ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY**

18.As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

19.Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. T is make it clear that as per DDA policy, the dweller cla ing all tment

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against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

20.The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

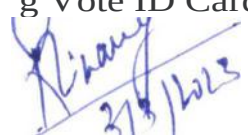
21.In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

22.The Appellant/Claimant has tendered her two Voter ID Card bearing number ARE 1790914 (Annexure-A) and bearing number ARE 2533537 (Annexure-B), Aadhar Card (Annexure-C), Pan Card (Annexure-G) and Voter List for the year 2014 (Annexure-J).

23.The Appellant/Claimant has tendered her two Voter ID Card bearing number ARE 1790914 (Annexure-A) and bearing number ARE 2533537 (Annexure-B). The first Voter ID Card bearing number ARE 1790914 (Annexure-A) has been issued on 27.12.2013, much prior to the cutoff date of 01.01.2015. Her name appears at SI. No. 1120 in the Voter List for the year 2014 (Annexure-J). But the Appellant/Claimant has not tendered the Voter List of the year's 2012, 2013 and 2015 (prior to 01-01-2015) & also of the year f survey, to show that she had casted her vote by u g Vote ID Card


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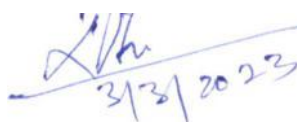
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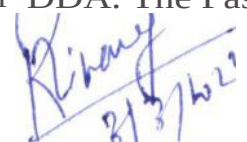
bearing number ARE 1790914 (Annexure-A). Further the second Voter ID Card bearing number ARE 2533537 (Annexure-B) has been issued on 15.12.2022 much after the cutoff date of 01.01.2015. But it has not been satisfactorily explained as to why the Appellant/Claimant had got the second Voter ID Card bearing number ARE 2533537 (Annexure-B) issued on 15.12.2022 when she already possess the first Voter ID Card bearing number ARE 1790914 (Annexure-A), which has been issued on 27.12.2013. This creates doubt & suspicion. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in the Voter List for the year 2014 (Annexure-J) but there is no material to show that her name also appears in the Voter List of the year's 2012, 2013 and 2015 (prior to 01-01-2015) & of the year of survey. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

24.The Appellant/Claimant has admitted that she is not having a separate Ration Card on the address of first floor of the Jhuggi No. B-585 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-I) issued on 28.11.2014 just about one month before the cutoff date of 01.01.2015 in the name of her mother Kamla and the names of the family members, including that of the present Appellant/Claimant, have been recorded. But the fact remains that the Appellant/Claimant is not having a separate Ration Card on the address of first floor of the Jhuggi No. B-585 regarding which she is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

25.The Appellant/Claimant has tendered the Voter ID Card bearing number ARE 1531326 (Annexure-D), Aadhar Card (Annexure-E) & Pan Card (Annexure-F) of her husband Deepak as well as the Electricity Bill (Annexure-H) and Pass Book of PNB (Annexure-K). The Voter ID Card bearing number ARE 531326 (Annexure-D) has been issued on 01.01.2014. Electricity Bill (Annexure-H) shows that the electricity connection has been taken by the on 25.05.2008 in the name of Kamla thereby showing that the Appellant/Claimant was not having electricity connection on the address of first floor of the Jhuggi N B-585 regarding which he is claiming allotment fr DDA. The Pass


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Book of PNB (Annexure-K) shows that account was opened by the Appellant/Claimant on 05.10.2013. The documents, Annexure-D to Annexure-F, Annexure-H and Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above she was not having a separate Ration Card on the cut off date of 01.01.2015.

26. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015. The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

27. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/10/72.G/708 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

28. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

(Rajendra Singh)

(Satish Ahlawat)

(Rachna T wary)

Jt. Secretary (Retd.) GOI

Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 169 of 2022

Date of Institution: 23.11.2022

Date of Order: 03.03.2023

Present: Appellant/ Claimant Sher Singh Sb o Paras Nath Singh

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-202, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No.C-202 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/68/0019.G/1553 dated 07.11.2022 to the present Appellant/C aimant. Aggrieved



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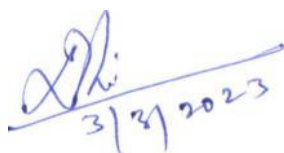
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by the same, the present Appeal No. 169 of 2022 has been filed by the present Appellant/Claimant.

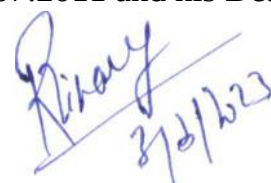
3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 21.02.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/Claimant's jhuggi bearing No. C-302 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

7. The statement of the Appellant/Claimant has been recorded before us on 21.02.2023, wherein he has stated that his parents, Paras Nath & Manjula, are having two sons, namely, Pawan and Sher Singh (Appellant/Claimant) & five daughters, namely, Anju, Sanju, Radha, Neelam and Kiran. Paras Nath had died on 27.07.2011 and his Death


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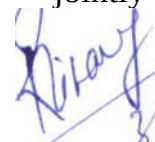

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Certificate is Annexure-M. All the daughters are married and living in their respective matrimonial homes. Anju W/o Rakesh and Sanju W/o O. P. Singh have got allotments from DDA against their respective Jhuggis in Bhoomiheen from their in-law's side. Pawan is married with Chandan and having two daughters, Sanskriti & Advika. Sher Singh is married with Ruby and having two children, Sanskar & Akriti.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi bearing No. C-202. The entire family was initially living jointly on the ground floor of the said Jhuggi No. C-202 and they were also having joint kitchen. The Appellant/Claimant has categorically stated that in the year 2019 his mother Manjula had fallen seriously ill and accordingly one room on the ground floor was converted into toilet and the Appellant/Claimant Sher Singh along with his family had shifted to the first floor of their Jhuggi No. C-202.
9. The Appellant/Claimant has stated that regarding the ground floor of the said Jhuggi No. C-202 DDA has made allotment in favour of his mother, Manjula. These facts are not disputed by DDA.
10. The Appellant/Claimant has also stated that he had sought allotment from DDA against the first floor of the said Jhuggi No. C-202 but his claim has been rejected by EDC and accordingly aggrieved by the same he has filed the present Appeal No. 169 of 2022 for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-M, in support of his claim and prayed that DDA be directed to make alternative allotment in his favour as per the policy guidelines issued by DDA.
11. DDA has furnished the survey records along with two video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 21.02.2023 wherein he has stated that in one video clip his mother Manjula is seen in her Jhuggi on the ground floor but no kitchen is seen on the ground floor of Jhuggi No. C-202. Further in the second video clip he (Sher Singh- Appellant/Claimant) is seen in his Jhuggi on the first floor and one room & a kitchen are also seen in the same video clip.
12. The admission of the Appellant/Claimant is a clincher piece of evidence as he has specifically stated that his family is having a double storey Jhuggi bearing No. C-202 in which joint family, which was headed by Manjula widow of Sher Singh and comprised of the family of both the sons Pawan & Sher Singh, was living jointly on the ground


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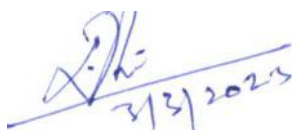

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floor of the said Jhuggi No. C-202 and they were also having joint kitchen and the entire family had lived there jointly till 2019. The Appellant/Claimant has categorically stated that in the year 2019 his mother Manjula had fallen seriously ill and accordingly one room on the ground floor was converted into toilet and the Appellant/Claimant Sher Singh along with his family had shifted to the first floor of their Jhuggi No. C-202 regarding which he has claimed allotment from DDA. This accordingly shows that the Appellant/Claimant Sher Singh along with his family had lived jointly with his mother & Pawan Kumar in the said Jhuggi No. C-202 till 2019 and more specifically on the cutoff date of 01.01.2015 he was living jointly in Jhuggi No. C-202 as he had shifted to the first floor of the said Jhuggi No. C-202 in the year 2019 and thereafter he had started living separately & independently. Thus as per the admission of the Appellant/Claimant he was living jointly in Jhuggi No. C-202 on the cutoff date of 01.01.2015.

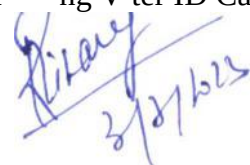
13. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. C-202 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant along with his wife, Ruby, & children, Sanskar & Akriti, was living jointly with his mother, Manjula, & the family of his brother, Pawan, on the cut off date of 01.01.2015 because he has admittedly started living separately & independently on the first floor of the said Jhuggi no. C-202 in the year 2019. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because on the cutoff date of 01.01.2015 he was living jointly with his mother, Manjula in Jhuggi No. C-202.

14. Furthermore, the material placed on file also shows that DDA has already made allotment in favour of his mother, Manjula, against the said Jhuggi no. C-202 and accordingly the Appellant/Claimant Sher Singh is not eligible to seek allotment from DDA as two allotments against the same dwelling unit are not permissible as per the policy guideline of DDA because as per our discussion above it is found that both Manjula and Sher Singh were living jointly in Jhuggi No. C-202 on the cutoff date of 01.01.2015. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

15. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card &



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separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

16.The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-M, in support of his claim and prayed that DDA be directed to make allotment in his favour.

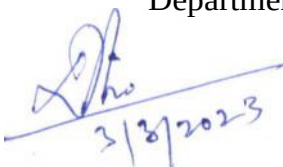
17.It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015 but having a joint Ration Card with his father Paras Nath. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/68/0019.G/1553 dated 07.11.2022.

18. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.


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5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the II dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).



- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

19.As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

20.As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

21.Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

22.The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's '2012,

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2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

24. The Appellant/Claimant has tendered his Voter ID Card (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of 2014 (Annexure-K) and Voter List of 2019 (Annexure-L).

25. The Appellant/Claimant has tendered the Voter ID Card bearing number ARE 1519288 (Annexure-A), which has been issued on 06.01.2012, much prior to the cut off date of 01.01.2015. The Appellant/Claimant has also tendered the Voter Lists Voter list of the year 2014 (Annexure-K) in which his name appears at SI. No. 582 and the Voter list of the year 2019 (Annexure-L) in which his name appears at SI. No. 589. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

26. The Appellant/ Claimant has admitted that he is not having a separate Ration card on the address of the first floor of the said Jhuggi No. C-202 regarding which he is claiming allotment from DDA. He has tendered two Joint Ration Cards (Annexure-I and Annexure-J) issued on the address of Jhuggi No. C-202. The old Ration Card (Annexure-1) has been issued on 22.06.2002 in the name of his father Paras Nath in which the names of the family members including that of the present Appellant/Claimant have been mentioned. The new Ration Card (Annexure-J) has been is ed on 20.09.2008 in


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the name of his father Paras Nath in which the names of the family members including that of the present Appellant/Claimant have been mentioned. But the fact remains that the Appellant/ Claimant is not having a separate Ration card despite of the fact that he is claiming allotment against the upper floor. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

27.The Appellant/Claimant has tendered the Voter ID Card No. ARE 2157971 (Annexure-D), Aadhar Card, (Annexure-E) & Pan Card (Annexure-F) of his wife Ruby as well as his Pass Book of PNB (Annexure-G) and Electricity Bill (Annexure-H).

28.It is pointed out that the Voter ID Card bearing number ARE 2157971 (Annexure-A), which has been issued on 05.07.2017, much after the cut off date of 01.01.2015. The Pass Book of PNB (Annexure-G) shows that the account was opened by the Appellant/ Claimant on 03.09.2011. The Electricity Bill (Annexure-H) shows that the electricity connection has been taken in the name of his father Paras Nath on 13.07.2008. The documents, Annexure-D to Annexure-H, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 and further he has been found to be living jointly with his mother on the cut-off date of 01.01.2015. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

29.The material placed on file shows that the Appellant/Claimant along with his wife, Ruby, & children, Sanskar & Akriti, was living jointly with his mother, Manjula, & the family of his brother Pawan, on the cut off date of 01.01.2015 in Jhuggi No. C-202 because he has admittedly started living separately & independently on the first floor of the said Jhuggi No. C-202 in the year 2019 and further the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. Furthermore, DDA has already made allotment in favour of his mother, Manjula, against the said Jhuggi no. C-202 and accordingly the Appellant/Claimant Sher Singh is not eligible to seek allotment froqi DDA as two allotments against the same d unit are not

permissible as per the policy guideline of DDA because as per our discussion above it is found that both Manjula and Sher Singh were living jointly in Jhuggi No. C-202 on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-M, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant was living jointly with his mother, Manjula, on the cut off date of 01.01.2015 in the Jhuggi No. C-202 and further the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 inspite of the fact that he is allegedly claiming allotment against the upper floor and furthermore since DDA has already made allotment in favour of Manjula in respect of the Jhuggi No. C-202 the Appellant/Claimant cannot claim second allotment against that very Jhuggi. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because the Appellant/ Claimant was living jointly with his mother, Manjula in the Jhuggi No. C-202 on the cutoff date of 01.01.2015.

30. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/68/0019.G/1553 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

31. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority Others". The file be consi ned to records after due compliance.


(Ranbir Singh)¹


(Sati h Ahlawat)


(Rachila Ti)

Jt. Secretary (Retd.) GOI

Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

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al-ORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 175 of 2022

Date of Institution: 23.11.2022

Date of Order: 03.03.2023

Present: Appellant/ Claimant Mohmad Yaseen Sb o 'has

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. D-45, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. D-45 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the nodal Officer,


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Bhoomiheen Camp, duly communicated its order bearing No. 385/27/9.1/915 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 175 of 2022 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 20.02.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. D-45 was found to exist on the upper floor but he had failed to submit required documents, i.e., a separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

7. The Appellant/Claimant has stated that his parents, Bias & Jannat, were having three sons, namely, Nur Mohmad, Md. Yaseen (Appellant/Claimant & Ya in and one

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daughter, namely Gulzar. Ilias and Jannat have expired in 2017 and 2010 respectively. All the children are married. Jannat is living in her matrimonial home in Uttar Pradesh. Nur Mohmad is married with Sonam and having five children. Yamin is married with Bushra. Md. Yaseen (Appellant/Claimant) is married with Sajida and having two children, Aisha & Jishan.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. D-45 and it comprised of one room on each floor. His brother Nur Mohmad along with his family is living on the ground floor of Jhuggi No. B-405 and regarding that DDA has made allotment in favour of his wife Sonam. These facts are not disputed by DDA.
9. The Appellant/Claimant has also stated that he along with his wife Sajida and both the children, Aisha & Jishan, is living on the first floor of the said Jhuggi bearing Jhuggi No. B-405. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. D-45 but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make alternative allotment in his favour as per the policy guidelines issued by DDA.
10. DDA has furnished the survey records along with ten video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 20.02.2023 wherein he has stated that in five video clip his ~~meillree~~ brother Nur Mohamd and his wife Sonam & five children are seen in the Jhuggi on the ground floor and their room/kitchen is also seen whereas in the other five video clips he (Mohmad Yasin- Appellant/Claimant) and his wife Sajida are seen in his Jhuggi on the first floor of Jhuggi No. D-45 and their room/kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca double storey Jhuggi of the family of the Appellant/Claimant bearing Jhuggi No. D-45 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/ Claimant & his family used the first floor of the said Jhuggi for residential purposes.

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11. Accordingly, we have no hesitation in holding that the Jhuggi No. D-45 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further the Appellant/ Claimant & his family have been using the first floor of the said Jhuggi No. D-45 for residential purposes.
12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.
13. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in her favour.
14. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015 but having a joint Ration Card with his sister-in-law, Sonam W/o Nur Mohmad. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/27/9.1/915 dated 07.11.2022.
15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative wellin units to rehabilitation and relocate Ji dwellers would be as und r

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.

Passbook issued by public sector Bank/Post Office wflEi phot raph

- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

16.As per Part - B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17.As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

"W. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18.Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him this is mand ory to have

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only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

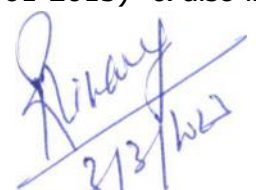
GIST OF THE POLICY

19. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
20. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.
21. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1188234 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List for the year 2014 (Annexure-I) and Voter List for the year 2019 (Annexure-J).
22. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1188234 (Annexure-A), which has been issued on 27.08.2010, much prior to the cutoff date of 01.01.2015. His name appears at SI. No. 386 in the Voter List for the year 2014 (Annexure-1) and at SI. No. 585 in the Voter List for the year 2019 (Annexured). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

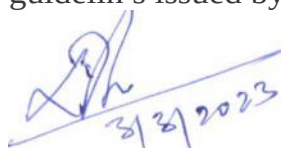

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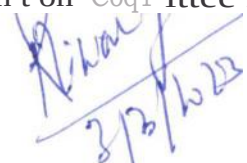
23. The Appellant/Claimant has admitted that he is not having a separate Ration Card on the address of first floor of the jhuggi No. D-45 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-G) issued in the name of his sister-in-law, Sonam W/o Nur Mohmad and the names of the family members, including that of the present Appellant/Claimant, have been recorded. But the fact remains that the Appellant/Claimant is not having a separate Ration Card on the address of first floor of the Jhuggi No. D-45 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.
24. The Appellant/Claimant has tendered the Voter ID Card bearing number ARE 2218717 (Annexure-D), Aadhar Card (Annexure-E) & Pan Card (Annexure-F) of his wife Sajida and Electricity Bill (Annexure-H). The Voter ID Card bearing number ARE 2218717 (Annexure-D), has been issued on 28.10.2010. Electricity Bill (Annexure-H) shows that the electricity connection has been taken by the on 12.10.2020, much after the cutoff date of 01.01.2015. The documents, Annexure-D to Annexure-F and Annexure-H, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above he was not having a separate Ration Card on the cut off date of 01.01.2015.
25. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.
26. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has



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rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/27/9.1/915 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

27. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

 (Ran Singh) Jt. Secretary (Retd.) GOI MEMBER	  (Satish Ahlawat) Addl. District & Sessions Judge (Retd.) CHAIRMAN	 (Rachna Tiwary) EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, ICALICAJI.

Appeal No: 727 of 2023

Date of Institution: 16.02.2023

Date of Order: 03.03.2023

Present: Appellant/ Claimant Vasim Sb o Sattar Khan

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-664, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-664 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Off → Bh omiheen


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Camp, duly communicated its order bearing No. 385/7/172.G/1674 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 727 of 2023 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 23.02.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-E, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-664 was found to exist on the upper floor but he had failed to submit required documents, i.e., separate Ration Card, as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

7. The statement of the Appellant/ Claimant, Vasim, has been recorded before us on 23.02.2023, wherein he has stated that his parents, Sattar Khan & Farzan , are having

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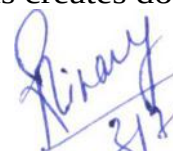
four sons, namely, Azim, Vasim (Appellant/ Claimant), Salman & Raja and four sisters, namely, Rani, Sahiba, Mahak & Mumtaz. Sattar Khan has expired on 25.07.2022 and his death certificate is Annexure-B. All the children except Azim & Vasim are unmarried. Azim is married with Aayat and he is living in Okhla. Vasim is married with Sazia.

8. The Appellant/ Claimant has stated that his family is having two single storey Jhuggis, which are opposite to each other and separated by gali. The Appellant/ Claimant has stated that his mother Farzana along with her unmarried children Salman, Raja, Rani, Sahiba, Mahak & Mumtaz is living Jhuggi No. C-664 and regarding that DDA has made allotment in favour of his mother, Farzana.
9. The Appellant/ Claimant has further stated that he along with his wife Sazia, is living in the second Jhuggi, which was situated opposite to the Jhuggi of his parents and bearing same number i.e., Jhuggi No. C-664. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure E, and prayed that DDA be directed to make allotment in his favour.
10. It is pointed out that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-664 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment, therefore, the Eligibility Determination Committee rejected his claim for alternative allotment. But interestingly when the statement of the Appellant/Claimant was recorded before us on 21.02.2023 he has tried to altogether change his stand by concocting a story that his family is having two single storey Jhuggis, which are situated opposite to each other and separated by gali and further DDA has made allotment in favour of his mother, Farzan against one of the Jhuggi but the claim of the Appellant/ Claimant for alternate allotment against the second Jhuggi, which was situated opposite to the Jhuggi of his parents has been wrongly rejected by DDA. Thus, the Appellant/Claimant has taken a somersault because he has now alleged that his claim against first floor of the Jhuggi of his parents has been rejected but instead he has alleged that his claim against the second single storey Jhuggi has been rejected by DDA. This creates doubt &


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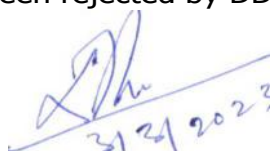
suspicion and shows that the Appellant/Claimant is desperate to get allotment from DDA by hook or crook.

11. It is pointed out that DDA has furnished the survey records along with two video clips.

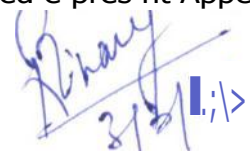
The video clips were played before the Appellant/Claimant when his statement was recorded before us on 23.02.2023 wherein he has stated that the first video clip pertains to the Jhuggi of his mother Farzana in which his brother Salman is seen and getting the survey conducted and further room/kitchen are also seen. Whereas in the second video clip an iron ladder placed outside the gali and going to the first floor is seen and further in that video clip his brother Azim is seen and impersonating as Vasim and he is also holding the slate on which "VASIM C-644 F" is written and a room/kitchen on the first floor are seen. The Appellant/Claimant has admitted that his Jhuggi, which he has claimed to have situated opposite to the Jhuggi of his parents and separated by gali is nowhere seen.

12. The Appellant/Claimant has admitted that his brother Azim had got the survey conducted in his place but it creates doubt and suspicion as to why Azim has not conducted survey on behalf of his brother Vasim but instead as to why Azim had got the survey conducted by impersonating himself as Vasim. This creates doubt & suspicion. Furthermore, both the Jhuggis are alleged to bearing same number i.e., Jhuggi No. C-664. It is quite surprising that two Jhuggis, which are opposite to each other and separated by gali are having the same number. It seems that the Appellant/Claimant in order to claim allotment has given same number to two Jhuggis so that the documents prepared on the Jhuggi of his parents in normal course can be misused to claim two allotments from DDA.

13. The Appellant/ Claimant has stated that his family is having two single storey Jhuggis, which are opposite to each other and separated by gali. His mother Farzana along with her unmarried children Salman, Raja, Rani, Sahiba, Mahak & Mumtaz is living in one of the Jhuggi No. C-664 and regarding that DDA has made allotment in favour of his mother, Farzana. Whereas the Appellant/ Claimant has specifically alleged that he along with his wife Sazia, is living in the second Jhuggi, which was situated opposite to the Jhuggi of his parents and bearing same number i.e., Jhuggi No. C-664 but his claim has been rejected by DDA and aggrieved by the same he has filed e pres nt Appeal


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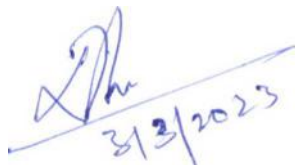

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for redressal. It is pertinent to point out that the Appellant/Claimant has admitted that his Jhuggi, which he has claimed to have situated opposite to the Jhuggi of his parents and separated by gali, is nowhere seen in the video clip furnished by DDA but instead his brother Azim had got the survey conducted on the first floor of the Jhuggi of his parents, which happened to be bearing the same number, i.e., Jhuggi no. C-664. Had the Appellant/Claimant having a Jhuggi situated opposite to the Jhuggi of his parents and separated by gali then in that eventuality Azim or the present Appellant/Claimant, as the case may be, would have got the survey conducted of that very Jhuggi and not on the first floor of the Jhuggi of his parents. Thus we have no hesitation in holding that the Appellant/Claimant was not having a Jhuggi situated opposite to the Jhuggi of his parents and separated by gali but he was living on the first floor of the Jhuggi of his parents bearing No. C-664.

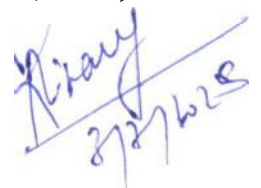
14. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the Jhuggi of the parents of the Appellant/Claimant is a double storey structure bearing Jhuggi No. C-664, Bhoomiheen Camp, and his mother Farzana along with her unmarried children Salman, Raja, Rani, Sahiba, Mahak & Mumtaz is living in one of the Jhuggi No. C-664 and regarding that DDA has made allotment in favour of his mother, Farzana. However, the Appellant/Claimant along with his family has been living on the first floor of the said Jhuggi No. C-664 on the cut off date of 01.01.2015.

15. Accordingly, we have no hesitation in holding that the Jhuggi No. C-664 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further the Appellant/ Claimant was not having a Jhuggi situated opposite to the Jhuggi of his parents and separated by gali but he was living on the first floor of the Jhuggi of his parents bearing No. C-664.

16. Now we shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-2015) & also in the year of survey.


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17. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-E, in support of his claim and prayed that DDA be directed to make allotment in his favour.

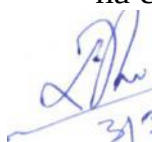
18. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015.. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/7/172.G/1674 dated 07.11.2022.

19. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

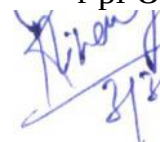
"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate n dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The J sweller should not ha e been any house allotted any residential ho r pl or flat on


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license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.

8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible Jj dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the II dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI **round** Floor) AS
PER DDA POLICY



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20. As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF MUCCI AS PER DDA POLICY

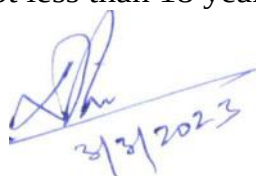
21. As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

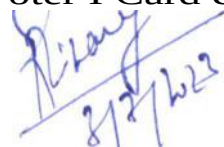
22. Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

23. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess Voter I Card & a


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separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

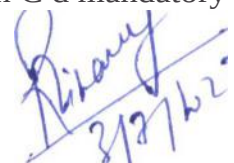
24. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in at least on the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

25. The Appellant/Claimant has tendered her Voter ID Card bearing number ARE 1612761 (Annexure-A), Voter List of the year 2013 (Annexure-C) and Voter List of the year 2019 (Annexure-D).

26. The Appellant/Claimant has tendered the Voter ID Card bearing number ARE 1612761 (Annexure-A), which has been issued on 16.01.2013, much prior to the cut off date of 01.01.2015. The name of the present Appellant/Claimant appears at SI. No. 663 in the Voter List of the year 2013 (Annexure-C) and at SI. No. 635 in the Voter List of the year 2019 (Annexure-D). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name appears in at least on the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

27. The Appellant/Claimant has admitted that he is not having a separate Ration Card on the address of first floor of the Jhuggi No. C-664 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-D) showing that it has been issued in the name of his mother Farzana and the name of family members, including that of the present Appellant/Claimant, have been mentioned. However, the date of issuance is not mentioned. The facts remain that the Appellant/Claimant is not having a separate Ration Card. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

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28. The material placed on file shows that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents, Annexure-A to Annexure-E, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

29. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/7/172.G/1674 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

30. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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*Rachna
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(R nigh)

(Sat sh Ahlawat)

(Rachna Tiwary)

Jt. Secretary (Retd.) GO! Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

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**BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE
GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ
DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KAL1KAJL**

Appeal No: 609 of 2023

Date of Institution: 23.11.2022

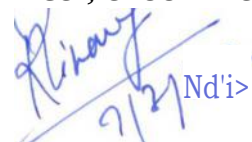
Date of Order: 07.03.2023

Present: Appellant/ Claimant Raj Kumar Sb o Baij Nath

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

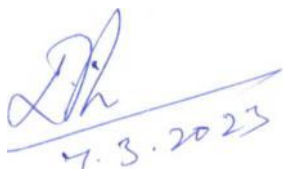
1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-137, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-137 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal ficer, ehoomiheen



Camp, duly communicated its order bearing No. 385/67/22.2.2/1513 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 609 of 2023 has been filed by the present Appellant/ Claimant.

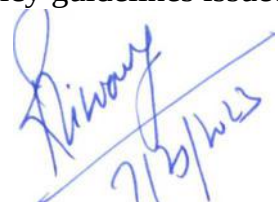
3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 24.02.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-137 was found to exist on the upper floor but he had failed to submit required documents, i.e., Voter ID Card & separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.


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7. The statement of the Appellant/ Claimant, Raj Kumar, has been recorded before us on 24.02.2023, wherein he has stated that his parents, Baij Nath & Chandra Devi, are having three sons, namely, Raj Kumar (Appellant/ Claimant), Ajay & Rahul and one daughter, namely, Renu. All the children are married. Renu is living in her matrimonial home in Ahmedabad. Ajay is married with Vidya and having two children, Yash Raj & Unnati. Rahul is married with Anita and having one daughter, Aditi. Whereas Raj Kumar (Appellant/ Claimant) is married with Arti and having two children, Vaibhav & Aditya.
8. The Appellant/ Claimant has stated that his family is having a triple storey Jhuggi No. A-137 and it comprised of one room on each floor. His parents, Baij Nath & Chandra Devi, along with the family of their son Rahul, are living on the ground floor of the said Jhuggi No. A-137 and regarding that DDA has made allotment in favour of Chandra Devi. These facts are not disputed by DDA.
9. The Appellant/ Claimant has also stated that his brother Ajay along with his wife Vidya & both the children, Yash Raj & Unnati is living on the first floor of the said Jhuggi No. A-137 but the claim of Ajay has been rejected by DDA and aggrieved by the same he has filed Appeal No. 140 of 2022 before the Appellate Authority. These facts are not disputed by DDA.
10. The Appellant/ Claimant has further stated that he along with his wife Arti & both the children, Vaibhav & Aditya is living on the second floor of the said Jhuggi No. A-137. The Appellant/ Claimant has sought allotment from DDA. But his claim has been rejected by DDA and aggrieved by the same he has filed Appeal No. 609 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-K, and prayed that DDA be directed to make allotment in her favour.
11. It is pointed out that both the Appeal No. 140 of 2022 and the Appeal No. 609 of 2023 shall be decided separately on the respective merits.
12. **DDA** has furnished the survey records along with six video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on

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24.02.2023 wherein he has stated that in the two video clips his mother, Chandra Devi, is seen in her Jhuggi on the ground floor and her room & kitchen are also seen and in the third video the pucca stair case going to the upper floor is also seen and further his brother Ajay is seen on the first floor and his room & kitchen are also. Further in the remaining three video clips an iron ladder going from the first floor to the second floor is seen and further his wife Arti is seen in his Jhuggi on the second floor and the room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. A-137 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the second floor of the said Jhuggi for residential purposes.

13. Accordingly, we have no hesitation in holding that the Jhuggi No. A-137 in Bhoomiheen Camp is a pucca triple storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant has been using the second floor of the said Jhuggi for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.

15. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is


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eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

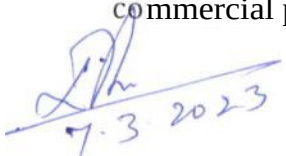
It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor and further he was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/67/22.2.2/1513 dated 07.11.2022.

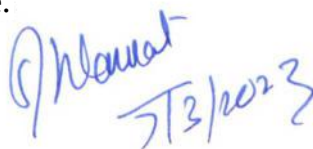
16.First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

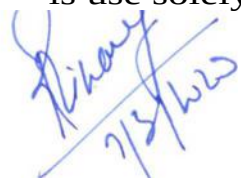
"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate] dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhug is use solely for commercial purpose.


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9. In case, the jhuggi is being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

**DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor)
AS PER DDA POLICY**

17. As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This

list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18.1t is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part-B Para 10 of DDA policy runs as under:

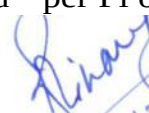
"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

19.1t is pointed out that in the policy the words "First Floor or Second Floor or Third Floor" are intentionally not used but the word "Upper Floor" is used. So in the cases where the Jhuggi is double storey there is no confusion because the "First Floor" of that Jhuggi without confusion is covered under the definition of "Upper Floor". But in the cases where the Jhuggi is constructed more than double storey, then dispute arises with respect to the definition of "Upper Floor". The moot question involved is whether the dwellers living on the second floor or third floor, akin to the dweller living on the first floor, shall also be entitled for alternative allotment if they possess requisite documents or not. In simple terms whether the word "Upper Floor" only connotes the "First Floor" or it also includes "Second Floor" & "Third Floor" of the Jhuggi.

20. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card and there is no doubt instead of using the word "First Floor" the word "per Fl or" has been


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used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further expanded to include the dweller living on the second & third floors. Furthermore, the words "Upper Floor" cannot be interpreted to be used in plural as "Upper Floors" by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -

"13. Gender and number:- In all Central Acts and Regulations unless there is anything repugnant in the subject or context,-

(1) words importing the masculine gender shall also be taken to include females; and

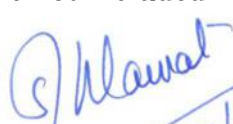
(2) words in the singular shall include the plural, and vice versa.

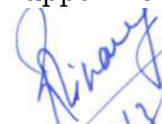
21. The bare perusal of Part-B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

22. Thus we have no hesitation in holding that the words *"Upper Floor"* used in the DDA policy without confusion connotes and includes only the "First Floor" of the Jhuggi. Thus the "Second Floor" & "Third Floor" of the Jhuggi are not included in the definition of the words *"Upper Floor"* used in the policy. In simple terms the word "Upper Floor" only connotes the "First Floor" of the Jhuggi and it does not include the "Second Floor" & "Third Floor" of the Jhuggi.

In view of the matter the words "upper floor" used in Part-B Para 10 of the DDA policy only denotes first floor and not all the floors above the first floor meaning thereby that the second and above floors are not included in the definition of upper floor. Therefore,


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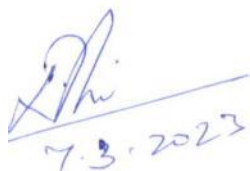
dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

23. Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015.

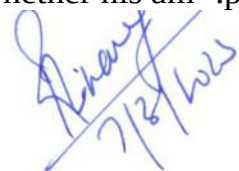
GIST OF THE POLICY

24. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

25. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further whether the Appellant/Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his am- .ppears


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in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

26. At the very outset it is pointed out that as per our discussion in detail above, we have held that the second floor is not covered under the definition of "Upper Floor" under the policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she has claimed allotment against the second floor, which is not included in the definition of upper floor under Part—B Para 10 of the policy.
27. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
28. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1135748 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2014 (Annexure-J) & Voter List of the year 2019 (Annexure-K).
29. It is pointed out that the Voter ID Card bearing No. ARE 1135748 (Annexure-A) has been issued on 16.07.2013, much prior to the cutoff date of 01.01.2015. Further the name of the Appellant/Claimant appears at SI. No. 599 in the Voter List of the year 2014 (Annexure-J) and at SI. No. 758 in the Voter List of the year 2019 (Annexure-K). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
30. The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the second floor bearing No. A-137 regarding which he has claimed allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-I) issued in the name of his mother Chandro Devi on 11.12.2014 and the names of the family members, including the name of the present


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Appellant/Claimant, have been mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the second floor bearing No. A-137 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

31.The Appellant/Claimant has tendered his Driving License (Annexure-D) issued on 19.05.2012 as well as the Voter ID Card No. ARE 1654549 dated 11.09.2013 (Annexure-E), Aadhar Card (Annexure-F) & Pan Card (Annexure-G) of his wife Arti and the Electricity Bill (Annexure-H) showing that the electricity connection has been taken by his father Baij Nath on 14.06.2008 on his ground floor Jhuggi No. A-137. The abovementioned documents, Annexure-D to Annexure-H, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015.

32.The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part-B Para 10 of the policy. The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. A-137 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part-B Para 10 of the policy and further he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

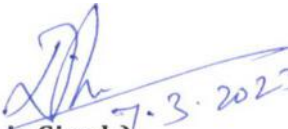
33.The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order

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bearing No. 385/67/22.2.2/1513 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

34. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.


(Ranbir Singh)

(Satish hlawat)


(Rachna Ti ary)

Jt. Secretary (Retd.) GO! Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF IF DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 377 of 2023

Date of Institution: 29.11.2022

Date of Order: 07.03.2023

Present: Appellant/ Claimant Anil Kumar S/o Subedar

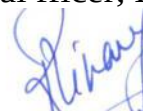
Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-109, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-109 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal officer, Bhoomiheen


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Camp, duly communicated its order bearing No. 385/36/3.2/925 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 244 of 2023 has been filed by the present Appellant/ Claimant.

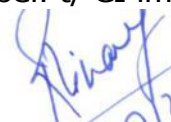
3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 18.01.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-109 was found to exist on the upper floor but he had failed to submit required documents, i.e., a separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee (EDC) has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.
7. The statement of the Appellant/ Claimant, Anil Kumar, has been recorded before us on 18.01.2023, wherein he has stated that his parents, Subedar & Jçalawasi, are having

three sons, namely, Anil (Appellant/ Claimant), Ramesh & Pawan and one daughter, namely, Sashikala. Subedar has expired in the year 2018. All the children are married. Ramesh is married with Poonam and having two children, Nitin & Arya. Pawan is married with Aarti. Sashikala is married with Vijay and having one son Pratap. Whereas Anil (Appellant/ Claimant) is married with Jyoti and having two children, Arohi & Annav.

8. The Appellant/ Claimant has stated that his brother Ramesh along with his wife Poonam & children, Nitin & Arya, is living separately in Jhuggi No. C-110-A and regarding that DDA has made allotment in favour of his wife Poonam. These facts are not disputed by DDA.
9. The Appellant/ Claimant has stated that his family is having a triple storey Jhuggi No. C-109. His sister Sashikala along with her husband Vijay & son Pratap, is living on the ground floor of the said Jhuggi No. C-109 and regarding that DDA has made allotment in favour of his sister Sashikala. These facts are not disputed by DDA.
10. The Appellant/ Claimant has also stated that his mother Kalwasi along with the family of her son Pawan is living on the first floor of the said Jhuggi No. C-109 and regarding that DDA has made allotment in favour of his mother Kalwasi. These facts are not disputed by DDA.
11. The Appellant/ Claimant has further stated that he along with his wife Jyoti & two children, Arohi & Annav, is living on the second floor of the said Jhuggi No. C-109. The Appellant/ Claimant has sought allotment from DDA. But his claim has been rejected by EDC and aggrieved by the same he has filed Appeal No. 377 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-M, and prayed that DDA be directed to make allotment in his favour.
12. The material brought on records shows that DDA has made allotment in favour of Ramesh S/o Subedar against Jhuggi No. C-110-A. In addition to him three members of the family have sought the allotments from DDA against Jhuggi No. C-109. Out of which DDA has made two allotments in favour of Sashikala D/o Subedar and Kalwasi W/o Subedar but the third claim submitted by the present Appellant/ Claimant, Anil S/o


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Subedar, has been rejected by EDC and aggrieved by the same he has filed the present Appeal No. 377 of 2023.

13.DDA has furnished the survey records along with four video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 18.01.2023 wherein he has stated that in the first video clip his sister Sashikala, is seen in her Jhuggi on the ground floor and in the second video clip his mother, Kalawasi, is seen on the first floor and further in the remaining two video clips he (Anil-Appellant/Claimant) is seen in his Jhuggi on the second floor. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. C-109 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the second floor of the said Jhuggi for residential purposes.

14.Accordingly, we have no hesitation in holding that the Jhuggi No. C-109 in Bhoomiheen Camp is a pucca triple storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant has been using the second floor of the said Jhuggi for residential purposes.

15.Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.

16.It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the ond & i d j1oors are


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not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor and further he was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/36/3.2/925 dated 07.11.2022.

17. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of an member of his/her family.


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8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi is being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

**DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor)
AS PER DDA POLICY**

18. As per Part-B Para 6 of DDA policy a dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The set of 12 documents has been prescribed in the subsequent Para. This

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list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. It is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part-B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

20. It is pointed out that in the policy the words "First Floor or Second Floor or Third Floor" are intentionally not used but the word "Upper Floor" is used. So in the cases where the Jhuggi is double storey there is no confusion because the "First Floor" of that Jhuggi without confusion is covered under the definition of "Upper Floor". But in the cases where the Jhuggi is constructed more than double storey, then dispute arises with respect to the definition of "Upper Floor". The moot question involved is whether the dwellers living on the second floor or third floor, akin to the dweller living on the first floor, shall also be entitled for alternative allotment if they possess requisite documents or not. In simple terms whether the word "Upper Floor" only connotes the "First Floor" or it also includes "Second Floor" & "Third Floor" of the Jhuggi.

21. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card and there is no doubt instead of using the word "First Floor" the word "Upper Floor" has been used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further extended to include the

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dweller living on the second & third floors. Furthermore, the words "Upper Floor" cannot be interpreted to be used in plural as "Upper Floors" by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -

"13. Gender and number:- In all Central Acts and Regulations unless there is anything repugnant in the subject or context,-

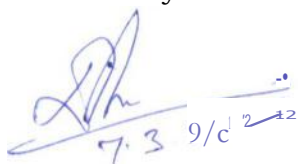
(1) words importing the masculine gender shall also be taken to include females; and

(2) words in the singular shall include the plural, and vice versa.

22. The bare perusal of Part-B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

23. Thus we have no hesitation in holding that the words *"Upper Floor"* used in the DDA policy without confusion connotes and includes only the "First Floor" of the Jhuggi. Thus the "Second Floor" & "Third Floor" of the Jhuggi are not included in the definition of the words *"Upper Floor"* used in the policy. In simple terms the word "Upper Floor" only connotes the "First Floor" of the Jhuggi and it does not include the "Second Floor" & "Third Floor" of the Jhuggi.

In view of the matter the words "upper floor" used in Part-B Para 10 of the DDA policy only denotes first floor and not all the floors above the first floor meaning thereby that the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment


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against first floor (Upper Floor) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

24. Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

25. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

26. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further whether the Appellant/Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

27. At the very outset it is pointed out that as per our discussion in detail above, we have held that the second floor is not covered under the definition of "Upper Floor" under


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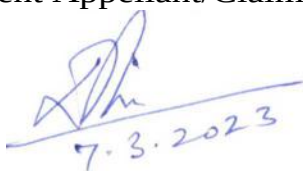
the policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she has claimed allotment against the second floor, which is not included in the definition of upper floor under Part-B Para 10 of the policy.

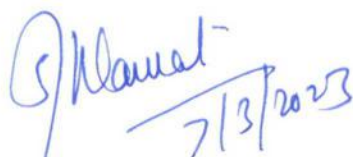
28. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

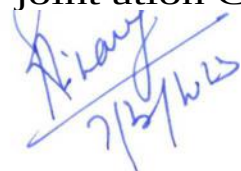
29. The Appellant/Claimant has tendered his Voter ID Card bearing number CXY 1508456 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2008 (Annexure-F) & Voter List of the year 2022 (Annexure-G).

30. It is pointed out that the Voter ID Card bearing number CXY 1508456 (Annexure-A) has been issued on 20.11.2005, much prior to the cutoff date of 01.01.2015. It is pointed out that the name of the Appellant/Claimant appears at SI. No. 703 in the Voter List of the year 2008 (Annexure-F) and at SI. No. 597 in the Voter List of the year 2022 (Annexure-G) and in both the Voter Lists, Annexure-F & Annexure-G, the Voter ID Card bearing number CXY 1508456 (Annexure-A) has been mentioned and accordingly presumption can be raised that his name appears in the Voter list of the intervening period. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

31. The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the second floor bearing No. C-109 regarding which he has claimed allotment from DDA. The Appellant/Claimant has tendered two joint Ration Cards, Annexure-H & Annexure-1 issued on the address of Jhuggi No. C-109. The old joint Ration Card (Annexure-H) has been issued on 13.01.2004 in the name of his father Subedar in which the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. The new joint ration Card


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(Annexure-I) has been issued in the name of his mother, Kalwasi, in which the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. However, the date of issuance is not mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the second floor bearing No. C-109 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

32.The Appellant/Claimant has tendered his Driving License (Annexure-D) issued on 18.10.2011, his Pass Book of SBI (Annexure-E) showing the account was opened on 17.07.2012 as well as the Voter ID Card No. ARE 1952828 dated 25.03.2014 (Annexure-J), Aadhar Card (Annexure-K) & Pan Card (Annexure-L) of his wife Jyoti and the Electricity Bill (Annexure-M) showing that the electricity connection has been taken by his father Subedar on 27.06.2008 on his ground floor Jhuggi No. C-109. The documents, Annexure-D, Annexure-E and Annexure-J to Annexure-M, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015.

33.The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part-B Para 10 of the policy. The documents, Annexure-A to Annexure-M, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. C-109 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part-B Para 10 of the policy and further he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

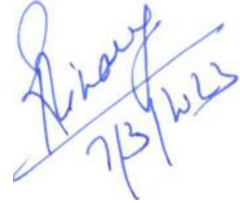

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34. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/36/3.2/925 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

35. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.


(Ra¹¹³ ingn)


(Satish Ahlawat)


(Rachna Tiwary)

Jt. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 378 of 2023

Date of Institution: 29.11.2022

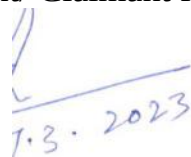
Date of Order: 07.03.2023

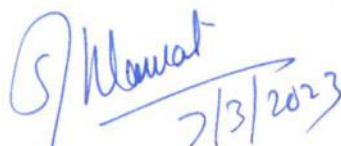
Present: Appellant/ Claimant Vijay Jha W/o Chandra Kant D/o Ghanshyam Jha

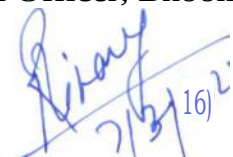
Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. C-100, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-100 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen

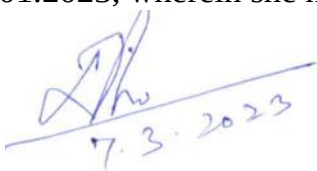

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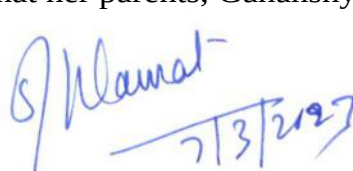

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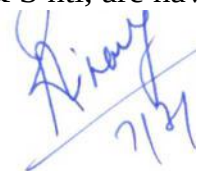

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Camp, duly communicated its order bearing No. 385/36/26.2/941 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 378 of 2023 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 18.01.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-100 was found to exist on the upper floor but she had failed to submit required documents, i.e., a separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee (EDC) has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.
7. The statement of the Appellant/ Claimant, Vidya, has been recorded before us on 18.01.2023, wherein she has stated that her parents, Gahanshyam & S nti, are having


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one son, namely, Govind and one daughter, namely, Vidya (Appellant/ Claimant). Gahanshyam has expired on 06.06.2021 and the death certificate is Annexure-E. Govind is married with Sonam and having one son Piyush. Vidya (Appellant/ Claimant) is married with Chander Kant and having one son Ashutosh. Chander Kant has deserted Vidya and now a day she along with her son Piyush is living with her parents.

8. The Appellant/ Claimant has stated that her family is having a triple storey Jhuggi No. D-14. Her parents, Gahanshyam (till his death) & Shanti, along with the family of their son Govind, are living on the ground floor & first floor of the said Jhuggi No. C-100 and regarding that DDA has made allotment in favour of her mother, Shanti. These facts are not disputed by DDA.
9. The Appellant/ Claimant has further stated that she along with her son Ashutosh is living on the second floor of the said Jhuggi No C-100. The Appellant/ Claimant has sought allotment from DDA. But her claim has been rejected by EDC and aggrieved by the same he has filed the present Appeal before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-K, and prayed that DDA be directed to make allotment in his favour.
10. DDA has furnished the survey records along with two video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 18.01.2023 wherein she has stated that in the first video clip her mother, Shanti, is seen in her Jhuggi on the ground floor and in the second video clip she (Vidya-Appellant/Claimant) along with her son Ashutosh, is seen in her Jhuggi on the second floor. The video of the first floor has not been prepared because Shanti, who is the mother of the Appellant/Claimant, was living on the ground SZ first floors. There is nothing to disbelieve the Appellant/Claimant about the family having triple storey Jhuggi especially when the Appellant/Claimant is seen on the second floor in the video clips furnished by DDA. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. C-100 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the second floor of the said Jhuggi for her residential purposes.

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11. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.

12. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she has claimed allotment against the second floor, which is not included in the definition of upper floor and further she was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/36/26.2/941 dated 07.11.2022.

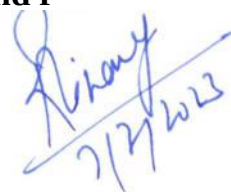
13. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate jj dwellers would be as under


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1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi is being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.



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- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor)

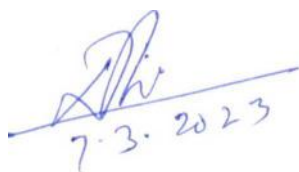
AS PER DDA POLICY

14. As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

15. It is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part-B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."


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16. It is pointed out that in the policy the words *"First Floor or Second Floor or Third Floor"* are intentionally not used but the word *"Upper Floor"* is used. So in the cases where the Jhuggi is double storey there is no confusion because the "First Floor" of that Jhuggi without confusion is covered under the definition of *"Upper Floor"*. But in the cases where the Jhuggi is constructed more than double storey, then dispute arises with respect to the definition of *"Upper Floor"*. The moot question involved is whether the dwellers living on the second floor or third floor, akin to the dweller living on the first floor, shall also be entitled for alternative allotment if they possess requisite documents or not. In simple terms whether the word "Upper Floor" only connotes the "First Floor" or it also includes "Second Floor" & "Third Floor" of the Jhuggi.

17. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card and there is no doubt instead of using the word "First Floor" the word "Upper Floor" has been used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further expanded to include the dweller living on the second & third floors. Furthermore, the words "Upper Floor" cannot be interpreted to be used in plural as "Upper Floors" by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -

"13. Gender and number:- In all Central Acts and Regulations unless there is anything repugnant in the subject or context,-

(1) words importing the masculine gender shall also be taken to include females; and

(2) words in the singular shall include the plural, and vice versa.

18. The bare perusal of Part-B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions with a specific condition for the dwellers

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living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

19. Thus we have no hesitation in holding that the words "*Upper Floor*" used in the DDA policy without confusion connotes and includes only the "First Floor" of the Jhuggi. Thus the "Second Floor" & "Third Floor" of the Jhuggi are not included in the definition of the words "*Upper Floor*" used in the policy. In simple terms the word "Upper Floor" only connotes the "First Floor" of the Jhuggi and it does not include the "Second Floor" & "Third Floor" of the Jhuggi.

In view of the matter the words "upper floor" used in Part-B Para 10 of the DDA policy only denotes first floor and not all the floors above the first floor meaning thereby that the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

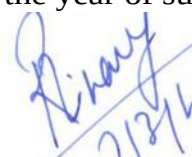
20. Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This makes it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey,


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for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further whether the Appellant/Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23. At the very outset it is pointed out that as per our discussion in detail above, we have held that the second floor is not covered under the definition of "Upper Floor" under the policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she has claimed allotment against the second floor, which is not included in the definition of upper floor under Part-B Para 10 of the policy.

24. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

25. The Appellant/Claimant has tendered her Voter ID Card bearing No. ARE 1612588 (Annexure-A), Aadhar Card (Annexure-B), Pan Card Annexure-C), Voter List of the year 2014 (Annexure-H) and Voter List of the year 2019 (Annexure-I).

26. It is pointed out that both the Voter ID Card bearing No. ARE 1612588 (Annexure-A) has been issued on 16.01.2013, much prior to the cutoff date of 01.01.2015. Further, the name of the Appellant/Claimant appears at SI. No. 526 the Vo - List Qf the year


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2014 (Annexure-H) and at Si. No. 570 in the Voter List of the year 2019 (Annexure-I) in which Voter ID Card bearing number ARE 1612588 is mentioned. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

27.The Appellant/Claimant has admitted that she is not having a separate Ration Card issued on the address of Jhuggi on the second floor bearing No. C-100 regarding which she has claimed allotment from DDA. Thus the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the second floor bearing No. C-100 regarding which she is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor inspite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

28.The Appellant/Claimant has tendered the Electricity Bill (Annexure-F) showing the connection as taken by her father Ghanshyam, Gas Connection Bill (Annexure-G) showing the gas connection has been taken by the Appellant/Claimant on 25.02.2014, her Pass Book of PNB (Annexure-J) showing opening of account on 22.10.2014 and her Pass Book of Post Office (Annexure-K) showing opening of account on 23.09.2016. The documents, Annexure-F, Annexure-G, Annexure-J and Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015, which is mandatory document for the upper floor.

29.The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and she has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part-B Para 10 of the policy. The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or


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interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. C-100 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part—B Para 10 of the policy and further she was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

30. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/36/26.2/941 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

31. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.


(Rajesh Singh)

Jt. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

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(Satish Ahlawat)

CHAIRMAN


(Rachna Tiwary)

EXPERT MEMBER

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BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 140 of 2022

Date of Institution: 22.11.2022

Date of Order: 07.03.2023

Present: Appellant/ Claimant Ajay Kumar S/o Baij Nath

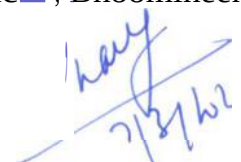
Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-137, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-137 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen


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Camp, duly communicated its order bearing No. 385/67/22.1.1/1514 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 140 of 2022 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 24.02.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-137 was found to exist on the upper floor but he had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

7. The statement of the Appellant/ Claimant, Ajay Kumar, has been recorded before us on 24.02.2023, wherein he has stated that his parents, Baij Nath & andra Devi, are


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having three sons, namely, Raj Kumar, Ajay (Appellant/ Claimant) & Rahul and one daughter, namely, Renu. All the children are married. Renu is living in her matrimonial home in Ahmedabad. Rahul is married with Anita and having one daughter, Aditi. Raj Kumar is married with Arti and having two children, Vaibhav & Aditya. Whereas Ajay (Appellant/ Claimant) is married with Vidya and having two children, Yash Raj & Unnati.

8. The Appellant/ Claimant has stated that his family is having a triple storey Jhuggi No. A-137 and it comprised of one room on each floor. His parents, Baij Nath & Chandra Devi, along with the family of their son Rahul, are living on the ground floor of the said Jhuggi No. A-137 and regarding that DDA has made allotment in favour of Chandra Devi. These facts are not disputed by DDA.
9. The Appellant/ Claimant has also stated that his brother Raj Kumar along with his wife Arti & both the children, Vaibhav & Aditya is living on the second floor of the said Jhuggi No. A-137 but the claim of Raj Kumar has been rejected by DDA and aggrieved by the same he has filed Appeal No. 609 of 2023 before the Appellate Authority. These facts are not disputed by DDA.
10. The Appellant/ Claimant has further stated that he along with his wife Vidya & both the children, Yash Raj & Unnati is living on the first floor of the said Jhuggi No. A-137. The Appellant/ Claimant has sought allotment from DDA. But his claim has been rejected by DDA and aggrieved by the same he has filed Appeal No. 140 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-K, and prayed that DDA be directed to make allotment in her favour.
11. It is pointed out that both the Appeal No. 140 of 2022 and the Appeal No. 609 of 2023 shall be decided separately on the respective merits.
- 12. DDA** has furnished the survey records along with six video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 24.02.2023 wherein he has stated that in the two video clips his mother, Chandra Devi, is seen in her Jhuggi on the ground floor and her room & kitchen are also seen and in


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the third video the pucca stair case going to the upper floor is also seen and further he (Ajay-Appellant/Claimant) is seen on the first floor and his room & kitchen are also. Further in the remaining three video clips an iron ladder going from the first floor to the second floor is seen and further Arti wife of his brother Raj Kumar is seen in her Jhuggi on the second floor and the room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. A-137 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.

13. Accordingly, we have no hesitation in holding that the Jhuggi No. A-137 in Bhoomiheen Camp is a pucca triple storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

15. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make allotment in his favour.

16. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present app al the Appellant/ Claimant has claimed allotme againj the upper

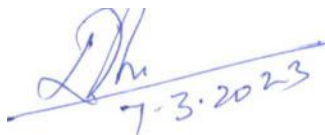
floor but he is not having a separate Ration Card but having a joint Ration Card issued in the name of his mother, Chandra Devi. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/67/22.1.1/1514 dated 07.11.2022.

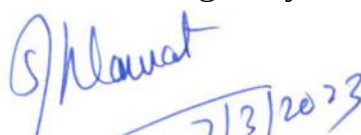
17. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-201 , which fulfills all the other eligibility criteria living n uppv

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floor, the same will also be considered for allotment of a separate dwelling units.

11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

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19. As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

20. Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This makes it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.


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23. The Appellant/Claimant has tendered her Voter ID Card bearing number ARE 1529196 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2014 (Annexure-J) and Voter List of the year 2019 (Annexure-K).
24. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1529196 (Annexure-A), which has been issued on 13.03.2012, much prior to the cutoff date of 01.01.2015. The name of the Appellant/Claimant appears at SI. No. 5 in the Voter List of the year 2014 (Annexure-J) and at SI. No. 13 in the Voter List of the year 2019 (Annexure-K). Therefore, we have no hesitation in holding that the Appellant/Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
25. The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. A-137 regarding which he has claimed allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-I) issued in the name of his mother Chandra Devi on 11.12.2014 and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor bearing No. A-137 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.
26. The Appellant/ Claimant has also tendered his Driving License (Annexure-D) issued on 05.04.2011 as well as the Voter ID Card No. ARE 1532380 (Annexure-E) issued on 17.03.2012, Aadhar Card (Annexure-F) & Pan Card (Annexure-G) of his wife Vidya Devi and the Electricity Bill (Annexure-H) showing that the electricity connection has been taken by his father Baij Nath on 14.06.2008 on his ground floor Jhuggi No. A-137. The documents, Annexure-D to Annexure-H, are of no help to the Appellant/ Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA as the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015.

27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015. The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA inspite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

28. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/67/22.1.1/1514 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

29. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.



(Ra ir Singh)

(Sa ish Ahlawat)



(Rachna Ti ary)

Jt. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 150 of 2022

Date of Institution: 22.11.2022

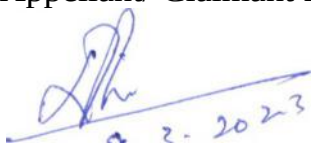
Date of Order: 09.03.2023

Present: Appellant/ Claimant Sanjeev Baidya Sb o Chandi Baidya

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-404, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-404 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen


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Camp, duly communicated its order bearing No. 385/9/45.1/1686 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 150 of 2022 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 24.02.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-404 was found to exist on the upper floor but he had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

7. The statement of the Appellant/ Claimant, Sanjeev Baidya, has been recorded before us on 24.02.2023, wherein he has stated that his parents, Chandi idya & Sandhya, are



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having two sons, namely, Chandan Baidya & Sanjeev (Appellant/ Claimant) and two daughters, namely, Rinki & Chandrika. All the children are married. Rinki and Chandrika are living in their respective matrimonial homes in Karnal & Dakshin Puri, Delhi. Chandan Baidya is married with Anjali and having three children, Akshita, Dhani & Manvi. Whereas Sanjeev is married with Mantu and having three children, Subham, Many & Shaurya.

8. The Appellant/ Claimant has stated that his family is having a triple storey Jhuggi No. C-404. His parents, Chandi Baidya & Sandhya, are living on the ground floor of the said Jhuggi No. C-404 and regarding that DDA has made allotment in favour of his father, Chandi Baidya. These facts are not disputed by DDA.
9. The Appellant/ Claimant has stated that his brother Chandan along with his wife Anjali and three children, Akshita, Dhani & Manvi, is living on the second floor of the said Jhuggi No. C-404. Chandan has sought allotment from DDA against the second floor of the said Jhuggi No. C-404 but his claim has been rejected by EDC and aggrieved by the same he has filed Appeal No. 244 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA. It is pointed out that both the Appeal No. 244 of 2023 and the present Appeal No. 150 of 2022 shall be decided separately on their respective merits.
10. The Appellant/ Claimant has further stated that he along with his wife Mantu & three children, Subham, Many & Shaurya, is living on the first floor of the said Jhuggi No. C-404. The Appellant/ Claimant has sought allotment from DDA. But his claim has been rejected by EDC and aggrieved by the same he has filed Appeal No. 150 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-M, and prayed that DDA be directed to make allotment in his favour.
11. DDA has furnished the survey records along with five video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 24.02.2023 wherein he has stated that in two video clips his father, Chandi Baidya, is seen in his Jhuggi on the ground floor and his room & kitchen are seen and further an iron ladder going from outside the Jhuggi to the upper floor is also seen. In other two


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video clips he (Sanjeev-Appellant/Claimant) & his wife Mantu, are seen on the first floor and the room & kitchen as well as an iron ladder going to the second floor are also seen. Further in the remaining two video clips his brother Chandan Baidya is seen in his Jhuggi on the second floor and the room is seen and a kitchen constructed outside are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. C-404 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.

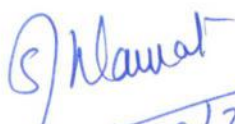
12. Accordingly, we have no hesitation in holding that the Jhuggi No. C-404 in Bhoomiheen Camp is a pucca triple storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.

13. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

14. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-M, in support of his claim and prayed that DDA be directed to make allotment in his favour.

15. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card but having a joint Ration Card issued


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in the name of his mother, Sandhya. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/9/45.1/1686 dated 07.11.2022.

16. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper


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floor, the same will also be considered for allotment of a separate dwelling units.

11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

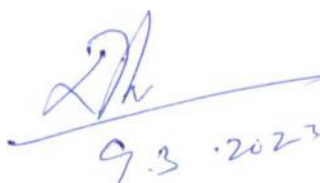
As envisaged in para above, the 11 dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

- 17.As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY


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18. As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

19. Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This makes it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

20. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

21. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

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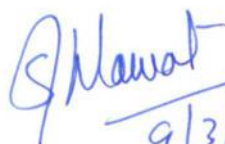


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22. The Appellant/Claimant has tendered her Voter ID Card bearing number CXY 1550490 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2015 (Annexure-L) and Voter List of the year 2019 (Annexure-M).
23. The Appellant/Claimant has tendered his Voter ID Card bearing number CXY 550490 (Annexure-A), which has been issued on 27.12.2005, much prior to the cutoff date of 01.01.2015. The name of the Appellant/Claimant appears at SI. No. 488 in the Voter List of the year 2015 (Annexure-L) and at SI. No. 482 in the Voter List of the year 2019 (Annexure-M). Therefore, we have no hesitation in holding that the Appellant/Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
24. The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. C-404 regarding which he has claimed allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-K) issued in the name of his mother Sandhya in which the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. However, the date of issuance is not mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor bearing No. C-404 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.
25. The Appellant/ Claimant has also tendered his Driving License (Annexure-D) issued on 07.07.2006 as well as the Voter ID Card No. ARE 1519379 (Annexure-E) issued on 06.01.2012, Aadhar Card (Annexure-F) & Pan Card (Annexure-G) of his wife Mantu and his Pass Book of Allahabad Bank (Annexure-H) & Pass Book of Allahabad Bank (Annexure-I) of his wife Mantu and the Electricity Bill (Annexure-J) showing that the electricity connection has been taken by his father Chandi on 30.05.2008 on his ground floor Jhuggi No. C-404. The documents, Annexure-D to Annexure-J, are of no help to the Appellant/ Claimant because these documents do not create any right, title or interest


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in his favour to claim allotment from DDA as the Appellant/ Claimant is not having a separate Ration Card on the cutoff date of 01.01.2015.

26. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015. The documents, Annexure-A to Annexure-M, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA inspite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

27. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/9/45.1/1686 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

28. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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it. Secretary (Retd.) GO! Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFC .E APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 164 of 2022

Date of Institution: 23.11.2022

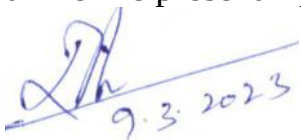
Date of Order: 09.03.2023

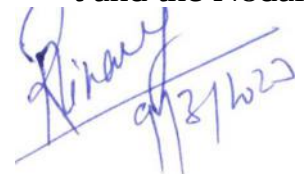
Present: Appellant/Claimant Imran Khan Sb o Imtiaz

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. D-200, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. D-200 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of he present Appellant/Claimant for alternative allotment and the Nodal


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Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/18/55.1/777 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No.164 Of 2022 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 23.02.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. D-200 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be "**No Separate Ration Card for Upper Floor Jhuggi**" and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

7. The statement of the Appellant/Claimant has been recorded before us on 23.02.2023 wherein he has stated that his parents, Imtiaz & Hasina Bano, a

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namely, Istiq & Imran (Appellant/Claimant) & three daughters, namely, Safina, Sahin & Farhin. Imtiaz had died in the year 2009. Istiq and Farhin are unmarried. Safina and Sahin are living in their respective matrimonial homes in Delhi. Imran (Appellant/Claimant) is married with Kehkashan and having one daughter Jainab.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi bearing No. D-200 and both the floors are having one room each. His parents, Imtiaz (up till his death) & Hasina Bano, are living on the ground floor of the said Jhuggi No. D-200 along with their unmarried children Istiq & Farhin and regarding that DDA has made allotment in favour of Hasina Bano. These facts are not disputed by DDA.
9. The Appellant/Claimant has stated he along with his wife Kehkashan & daughter Jainab is living on the first floor of the said Jhuggi bearing No. D-200. The Appellant/Claimant has sought allotment against the first floor of the said Jhuggi No. D-200 but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make alternative allotment in his favour as per the policy guidelines issued by DDA.
10. DDA has furnished the survey records along with five video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 23.02.2023 wherein he has stated that in three video clips his mother Hasina Bano is seen in her Jhuggi on the ground floor and her room & kitchen are also seen and further an iron ladder is also seen going from the ground floor to the upper floor. Further in the next two video clips he (Imran-Appellant/Claimant) is seen in his Jhuggi on the first floor and his room & kitchen are also seen in the same video clips. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. D-200 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.
11. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. D-200 in Bhoomiheen Camp is a double storey structure and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.


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1. we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

13. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make allotment in his favour.

14. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015 but having a joint Ration Card with his mother, Hasina Bano. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/18/55.1/777 dated 07.11.2022.

15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

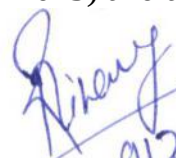
The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate Jcldwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.


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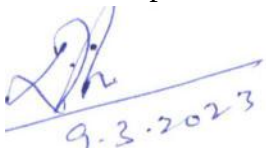
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4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the jj dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.


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- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

16. As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17. As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18. Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

19. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further all o

that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

20. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

21. The Appellant/Claimant has tendered his Voter ID Card (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2014 (Annexure-K) and Voter List of the year 2019 (Annexure-L)

22. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1192681 (Annexure-A), which has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The Appellant/Claimant has also tendered the Voter Lists Voter list of the year 2014 (Annexure-K) in which his name appears at SI. No. 584 and the Voter list of the year 2019 (Annexure-K) in which his name appears at SI. No. 932. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23. The Appellant/ Claimant has admitted that he is not having a separate Ration card on the address of the first floor of the said Jhuggi No. D-200 regarding which he is claiming allotment from DDA. He has tendered Joint Ration Card (Annexure-J), which has been issued on 04.11.2014 in the name of his mother Hasina and in which the names of the family members, including that of the present Appellant/ Claimant, have been mentioned. But the fact remains that the Appellant/ Claimant is not having a separate Ration card despite of the fact that he is claiming allotment against the upp

door. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

24. The Appellant/Claimant has tendered his Driving License (Annexure-D), Passport (Annexure-E), Electricity Bill (Annexure-F), Pass Book of Bank of India (Annexure-G) as well as the Voter ID Card No. ARE 2607275 (Annexure-H) & Aadhar Card, (Annexure-1) of his wife Hasina.

25. It is pointed out that the Driving License (Annexure-D) & Passport (Annexure-E) has been issued in favour of the Appellant/ Claimant on 24.04.2010 & 30.10.2012 respectively. The Electricity Bill (Annexure-F) shows that the electricity connection has been taken in the name of his mother Hasina on 24.06.2008. The Pass Book of Bank of India (Annexure-G) shows that the Appellant/ Claimant on 06.09.2010 opened the account. The Voter ID Card bearing number ARE 1192681 (Annexure-A) of Hasina has been issued on 11.01.2020, much after the cut off date of 01.01.2015. It is pertinent to point out that the documents, Annexure-E to Annexure-I, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 despite of the fact that he is claiming allotment against the upper floor.

26. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-L, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 on the address of the first floor of Jhuggi No. D-200 despite of the fact that he is claiming allotment against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

27. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has

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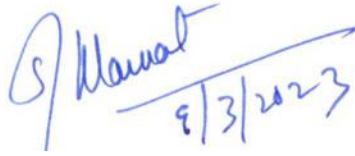
rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/18/55.1/777 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

28. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.



(Ranbir Singh) .1)

Jt. Secretary (Retd.) GOI
MEMBER



(Satish Ahlawat)

Addl. District & Sessions Judge (Retd.)
CHAIRMAN



(Rachna Tiwary)

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 245 of 2023

Date of Institution: 23.11.2022

Date of Order: 09.03.2023

Present: Appellant/ Claimant Astomi Bahadur W/o Tek Bahadur

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. A-229, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-229 was found to exist on the ground floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim



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of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/9/67.G/1690 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 245 of 2023 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 03.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-229 was found to exist on the first floor but she had failed to submit required documents, i.e., Voter ID Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.



7. The statement of the Appellant/ Claimant, Astomi, has been recorded before us on 03.03.2023, wherein she has stated that she is married with Tek Bahadur and having one son Suraj. In the past the Appellant/ Claimant along with her family used to live on rent in Govind Puri, Delhi and thereafter they have shifted to a servant quarter in Deshbandhu Apartments where she was working. In the year 2014 she bought a Jhuggi No. A-229, Bhoomiheen Camp, Kalkaji and thereafter constructed 3-4 floors and rented out the same and kept the ground floor for her residence. The Appellant/Claimant has sought allotment from DDA against the ground floor of the said Jhuggi No. A-229 but her claim has been wrongly rejected by DDA and aggrieved by the same she has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure K, and prayed that DDA be directed to make allotment in her favour.
8. DDA has furnished the survey records along with one video clip. This video clip was played before the Appellant/Claimant when her statement was recorded before us on 03.03.2023 wherein she has stated that in the video clip she (Astomi-Appellant/Claimant) is seen standing in her Jhuggi No. A-229 regarding which she is claiming allotment from DDA and one room & a kitchen is seen and further she is clearly heard making a statement that "She is living there since 2015".
9. The admission of the Appellant/Claimant is a clincher piece of evidence whereby she has stated that she had bought a Jhuggi No. A-229, Bhoomiheen Camp, Kalkaji in the year 2014 and thereafter constructed 3-4 floors and rented out the same and kept the ground floor for her residence. However, the date, month of purchase and construction is not given. Here it is pertinent to point out that in the video clip tendered by DDA the Appellant/Claimant has specifically admitted at the time of survey that she had started living in Jhuggi No. A-229 regarding which she is claiming allotment from DDA in the year 2015. This shows that the Jhuggi was purchased in 2014 and thereafter time was consumed to raise triple storey Jhuggi and she had started living there after 01.01.2015. Thus the statement of the Appellant/Claimant as well as the survey records/video clip has duly proved that the Appellant/Claimant was not living on the ground floor of Jhuggi No. A-229, Bhoomiheen Camp on the cutoff date of 01.01.2015.

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10. Accordingly, we have no hesitation in holding that the Appellant/Claimant was not living on the ground floor of Jhuggi No. A-229, Bhoomiheen Camp on the cutoff date of 01.01.2015 and accordingly she is not eligible to claim allotment from DDA as per the policy guidelines issued by DDA.
11. Now we shall appraise the material placed on file to determine as to whether the Appellant/Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
12. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-K, in support of her claim and prayed that DDA be directed to make allotment in her favour.
13. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and 11 Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The ii dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of .1.1 dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the 11 dwellers must appear in the survey conducted by LM Department.
5. The ii dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. 11 dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the 11 dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The .1.1 dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the


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Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.

8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the ii cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

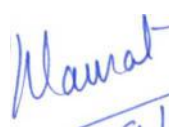
- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/11 dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

14. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of ii dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is

mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

15. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
16. The Appellant/Claimant has tendered her Voter ID Card No. ARE2085811 (Annexure-A), Aadhar Card (Annexure-B), e-Shram Card (Annexure-C), Pan Card (Annexure-D) and Voter List of the year 2019 (Annexure-K).
17. It is pointed out that the Voter ID Card No. ARE2085811 (Annexure-A) has been issued on 26.11.2015, much after to the cut off date of 01.01.2015. Accordingly, the question of her name appearing in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) does not arise. There is no doubt that the name of the Appellant/ Claimant appears at SI. No. 350 in the Voter List of the year 2019 (Annexure-K). But the fact remains that she was not having Voter ID Card on the cutoff date of 01.01.2015 and her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.
18. The Appellant/ Claimant has also tendered the Aadhar Card (Annexure-E) & Pan Card (Annexure-F) of her husband Tek Bahadur and Aadhar Card (Annexure-I) of her son Suraj, the Electricity Bill (Annexure-G) as well as her Pass Book of Punjab & Sind Bank (Annexure-H) and Ration Card (Annexure-1).


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19. It is pointed out that the Aadhar Card (Annexure-E) & Pan Card (Annexure-F) of her husband Tek Bahadur and Aadhar Card (Annexure-I) of her son Suraj are not relevant to determine the eligibility of the Appellant/ Claimant. The Electricity Bill (Annexure-G) shows that the present Appellant/ Claimant has taken the electricity connection on 16.03.2015, much after the cutoff date of 01.01.2015. In the Pass Book of Punjab & Sind Bank (Annexure-H) the date of opening of account is not mentioned. The Ration Card (Annexure-J) shows that it is issued in favour of the Appellant/ Claimant on 29.01.2018, much after the cutoff date of 01.01.2015. The documents, Annexure-E to Annexure-I, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015).
20. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 as her Voter ID Card No. ARE 2085811 (Annexure-A) has been issued on 26.11.2015, much after to the cut off date of 01.01.2015 and her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., Voter ID Card, on the cutoff date of 01.01.2015 and her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.
21. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/9/67.G/1690 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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22. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Rachna Tiwary)

Jt. Secretary (Retd.) GOI

Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 244 of 2023

Date of Institution: 23.11.2022

Date of Order: 09.03.2023

Present: Appellant/ Claimant Chandan Baidya S/o Chandi Baidya

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-404, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-404 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/9/45.2/1687 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 244 of 2023 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 24.02.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-404 was found to exist on the upper floor but he had failed to submit required documents, i.e., a separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee (EDC) has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.
7. The statement of the Appellant/ Claimant, Chandan Baidya, has been recorded before us on 24.02.2023, wherein he has stated that his parents, Chandi Baidya & Sandhya, are having two sons, namely, Chandan Baidya (Appellant/ Claimant) & Sanjeev and two daughters, namely, Rinki & Chandrika. All the children are married. Rinki and Chandrika are living in their respective matrimonial homes in Karnal & Dakshin Puri, Delhi. Sanjeev I married with Mantu and having three children, Subham, Many &

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Shaurya. Whereas Chandan Baidya is married with Anjali and having three children, Akshita, Dhani & Manvi.

8. The Appellant/ Claimant has stated that his family is having a triple storey Jhuggi No. C-404. His parents, Chandi Baidya & Sandhya, are living on the ground floor of the said Jhuggi No. C-404 and regarding that DDA has made allotment in favour of his father, Chandi Baidya. These facts are not disputed by DDA.
9. The Appellant/ Claimant has also stated that his brother Sanjeev along with his wife Mantu & three children, children, Subham, Many & Shaurya, is living on the first floor of the said Jhuggi No. C-404 but the claim of Sanjeev has been rejected by EDC and aggrieved by the same he has filed Appeal No. 150 of 2022 before the Appellate Authority. These facts are not disputed by DDA. It is pointed out that both the Appeal No. 150 of 2022 and the present Appeal No. 244 of 2023 shall be decided separately on their respective merits.
10. The Appellant/ Claimant has further stated that he along with his wife Anjali and three children, Akshita, Dhani & Manvi, is living on the second floor of the said Jhuggi No. C-404. The Appellant/ Claimant has sought allotment from DDA. But his claim has been rejected by EDC and aggrieved by the same he has filed Appeal No. 244 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-M, and prayed that DDA be directed to make allotment in his favour.
11. DDA has furnished the survey records along with five video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 24.02.2023 wherein he has stated that in two video clips his father, Chandi Baidya, is seen in his Jhuggi on the ground floor and his room & kitchen are seen and further an iron ladder going from outside the Jhuggi to the upper floor is also seen. In other two video clips his brother Sanjeev & his wife Mantu, are seen on the first floor and the room & kitchen as well as an iron ladder going to the second floor are also seen. Further in the remaining two video clips he (Chandan Baidya- Appellant/Claimant) is seen in his Jhuggi on the second floor and the room is seen and a kitchen constructed outside are also seen. Thus the statement of the Appellant/Claimant as well as the

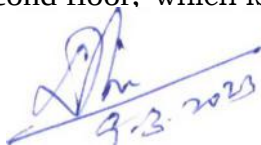
survey records/video clips has duly proved that the triple storey pucca Jhuggi No. C-404 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the second floor of the said Jhuggi for residential purposes.

12. Accordingly, we have no hesitation in holding that the Jhuggi No. C-404 in Bhoomiheen Camp is a pucca triple storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant has been using the second floor of the said Jhuggi for residential purposes.

13. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.

14. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor and further he


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was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/9/45.2/1687 dated 07.11.2022.

15.First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi is being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.


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11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the) dwellers must possess anyone of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/Ji dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

**DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor)
AS PER DDA POLICY**

- 16.As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

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17. It is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part-B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

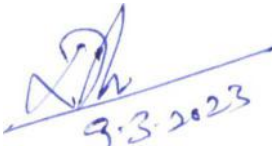
18. It is pointed out that in the policy the words *"First Floor or Second Floor or Third Floor"* are intentionally not used but the word *"Upper Floor"* is used. So in the cases where the Jhuggi is double storey there is no confusion because the "First Floor" of that Jhuggi without confusion is covered under the definition of *"Upper Floor"*. But in the cases where the Jhuggi is constructed more than double storey, then dispute arises with respect to the definition of *"Upper Floor"*. The moot question involved is whether the dwellers living on the second floor or third floor, akin to the dweller living on the first floor, shall also be entitled for alternative allotment if they possess requisite documents or not. In simple terms whether the word "Upper Floor" only connotes the "First Floor" or it also includes "Second Floor" & "Third Floor" of the Jhuggi.

19. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card and there is no doubt instead of using the word "First Floor" the word "Upper Floor" has been used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further expanded to include the dweller living on the second & third floors. Furthermore, the words "Upper Floor" cannot be interpreted to be used in plural as "Upper Floors" by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -

"13. Gender and number:- In all Central Acts and Regulations unless there is anything repugnant in the subject or context,-

(1) words importing the masculine gender shall also be taken to include females; and

(2) words in the singular shall include the plural, and vice versa.


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20. The bare perusal of Part-B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

21. Thus we have no hesitation in holding that the words "*Upper Floor*" used in the DDA policy without confusion connotes and includes only the "First Floor" of the Jhuggi. Thus the "Second Floor" & "Third Floor" of the Jhuggi are not included in the definition of the words "*Upper Floor*" used in the policy. In simple terms the word "Upper Floor" only connotes the "First Floor" of the Jhuggi and it does not include the "Second Floor" & "Third Floor" of the Jhuggi.

In view of the matter the words "upper floor" used in Part-B Para 10 of the DDA policy only denotes first floor and not all the floors above the first floor meaning thereby that the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

22. Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This makes it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including

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ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

23. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
24. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further whether the Appellant/Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
25. At the very outset it is pointed out that as per our discussion in detail above, we have held that the second floor is not covered under the definition of "Upper Floor" under the policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she has claimed allotment against the second floor, which is not included in the definition of upper floor under Part-B Para 10 of the policy.
26. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant having all the

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requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

27. The Appellant/Claimant has tendered his two Voter ID Cards bearing number ARE 1185222 (Annexure-A) & ARE 2495604 (Annexure-B), Aadhar Card (Annexure-C), Pan Card (Annexure-D), Voter List of the year 2014 (Annexure-L) & Voter List of the year 2019 (Annexure-M).

28. It is pointed out that both the Voter ID Cards bearing number ARE 1185222 (Annexure-A) issued on 27.10.2008 and ARE 2495604 (Annexure-B) issued on 29.01.2020, have been issued on the address of Jhuggi No. C-404. The Appellant/Claimant has failed to explain the reasons of getting two Voter ID Cards issued in his favour having different numbers.

29. It is pointed out that the first Voter ID Card bearing number ARE 1185222 (Annexure-A) has been issued on 27.10.2008, much prior to the cutoff date of 01.01.2015. The second Voter ID Card bearing number ARE 2495604 (Annexure-B) has been issued on 29.01.2020, much after the cutoff date of 01.01.2015. But it is pointed out that the name of the Appellant/Claimant appears at Si. No. 471 the Voter List of the year 2014 (Annexure-L) and at SI. No. 483 in the Voter List of the year 2019 (Annexure-M) and in both the Voter Lists, Annexure-L & Annexure-M, the Voter ID Card bearing number ARE 1185222 (Annexure-A) has been mentioned and further the address is mentioned to be Jhuggi No. C-404. Therefore, we have no hesitation in holding that the Appellant/Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

30. The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the second floor bearing No. C-404 regarding which he has claimed allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-K) issued in the name of his mother Sandhya in which the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. However, the date of issuance is not mentioned. But the fact


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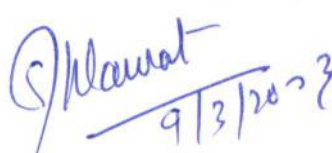
remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the second floor bearing No. C-404 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

31.The Appellant/Claimant has tendered the Voter ID Card No. ARE 1185248 dated 27.10.2008 (Annexure-E), Aadhar Card (Annexure-F) & Pan Card (Annexure-G) of his wife Anjali as well as the Electricity Bill (Annexure-H), his Pass Book of Allahabad Bank (Annexure-I) and Pass Book of Allahabad Bank (Annexure-J) of his wife Anjali. The Electricity Bill (Annexure-H) showing that the electricity connection has been taken by his father Chandi Baidya on 30.05.2008 on his ground floor Jhuggi No. C-404. But the fact remains that the Appellant/Claimant was not having electricity connection on the address of his second floor Jhuggi No. C-404. The documents, Annexure-E to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015.

32.The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part-B Para 10 of the policy. The documents, Annexure-A to Annexure-M, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. C-404 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part-B Para 10 of the policy and further he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

33.The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determinatiq Committee has


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rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/9/45.2/1687 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

34. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ran r Singh)

(Satish Ahlawat)

(Rachna Tiwary)

Jt. Secretary (Retd.) GO! Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

**BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE
GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ
DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI**

Appeal No: 161 of 2022

Date of Institution: 23.11.2022

Date of Order: 10.03.2023

Present: Appellant/ Claimant Savitri W/o Om Prakash D/o Rishal Singh

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. D-220, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Jhuggi bearing No. D-220 was found to be used for commercial purposes accordingly the Appellant/ Claimant was not found entitled for alternate allotment as per the policy guidelines. Hence, the Eligibility Determination

uommittee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/18/41.G/769 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 161 of 2022 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 22.02.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-P, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Prakash Chand, Dy. Director, & Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-220 was found to be used for commercial purposes and accordingly she was not found entitled for alternate allotment as per the policy guidelines. Accordingly, the Eligibility Determination Committee (EDC) has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Commercial"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal No. 161 of 2022.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the ground floor of the Jhuggi bearing No D-220 was exclusively used for commercial purposes or it was put to mixed used for commercial & residential purposes by the Appellant/ Claimant on the cutoff date of 01.01.2015 and whether the Appellant/



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Claimant was having all the requisite documents, including Voter ID card & Voter Lists etc., on the cutoff date of 01.01.2015 and accordingly whether the present Appellant/Claimant is entitled for alternate allotment as per the policy guidelines issued by DDA.

7. It is the admitted case of the parties that the family of the Appellant/ Claimant is having a double storey Jhuggi No. D-220. Hari Kishan, who is the son of Savitri (Appellant/ Claimant) has sought allotment from DDA against the first floor of the said Jhuggi No. D-220 but his claim is rejected by EDC and aggrieved by the same he has filed an Appeal No. 162 of 2022 before the Appellate Authority. Whereas the present Appellant/ Claimant has sought allotment from DDA against the ground floor of the said Jhuggi No. D-220. But her claim has also been rejected by EDC as the Appellant/ Claimant was found to be using Jhuggi bearing No. D-220 for commercial purposes and accordingly she was not found entitled for alternate allotment as per the policy guidelines. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-P, in support of her claim and prayed that DDA be directed to make allotment in her favour. Therefore, it has to be first seen as to what is the legal position with regard to running of shop under the DDA policy.
8. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and 11 Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the 11 dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the 11 dwellers must appear in the survey conducted by LM Department.


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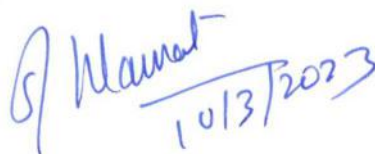

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5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the Ji dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of ii Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.


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- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

9. The statement of the Appellant/ Claimant, Savitri, has been recorded before us on 22.02.2023, wherein she has stated that she was married with Om Prakash and having two sons, namely, Jai Prakash & Hari Kishan and four daughters, namely, Poonam, Kiran, Sapna & Jyoti. All the children except Jyoti are married. Poonam, Kiran and Sapna are living in their respective matrimonial homes. Jai Prakash is married with Vandana and having two children, Hansika & Neerav and they are living separately on rent somewhere out of Bhoomiheen Camp. Harikishan is married with Neetu and having three children, Prachi, Kabir & Viraj.
10. The Appellant/ Claimant has stated that her son Hari Kishan along with his wife, Neetu and three children, Prachi, Kabir & Viraj, is living on the first floor of the said Jhuggi No. D-220. Han Kishan has sought allotment from DDA against the first floor of the said Jhuggi No. D-220 but his claim is rejected by EDC and aggrieved by the same he has filed appeal No. 162 of 2022 before the Appellate Authority. It is pointed out that both the Appeal No. 162 of 2022 and the present Appeal No. 161 of 2022 shall be decided separately on their respective merits.
11. The Appellant/ Claimant has stated that her family is having a double storey Jhuggi No. D-220. The Appellant/ Claimant along with her husband and unmarried daughter, Jyoti, is living on the ground floor of the said Jhuggi No. D-220. The Appellant/ Claimant has stated that her husband Om Prakash had lost the job during Covid and in order to earn his livelihood he had started running a small shop for making "Khat" (Cots) on the small space just out side the room on the ground floor. The present Appellant/ Claimant has sought allotment from DDA against the ground floor of the said Jhuggi No. D-220. But her claim was rejected by EDC as the Appellant/ Claimant was found to be using Jhuggi bearing No.

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0-220 for commercial purposes and accordingly she was not found entitled for alternate allotment as per the policy guidelines. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-P, in support of her claim and prayed that DDA be directed to make allotment in her favour.

12. DDA has furnished the survey records along with five video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 22.02.2023 wherein she has stated that in two video clips she (Savitri- Appellant/Claimant) is seen standing in her Jhuggi on the ground floor and her room & kitchen are also seen and further a small shop type structure out side her Jhuggi is also seen where her husband used to make cots. In three video clips her son Hari Kishan is seen in his Jhuggi on the first floor and his room & kitchen are also seen and further a bamboo ladder placed outside the Jhuggi is also seen which has been used for going to the first floor.
13. The statement of the present Appellant/Claimant has been duly corroborated by the video clips thereby showing that the Appellant/ Claimant along with her husband and unmarried daughter, Jyoti, is living on the ground floor of the said Jhuggi No. D-220 and further it is also proved that Om Prakash, who is the husband of the Appellant/Claimant, was running a small shop type structure just out side their Jhuggi to make cots. Therefore, merely making cots out side their Jhuggi does not change the nature of Jhuggi being residential to commercial and at the most it can be said to be used for residential & commercial purposes but by no stretch of imagination it can be said to be exclusively used for commercial purposes.
14. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the Appellant/Claimant is having a double storey Jhuggi No. D-220, which comprised of one room on each floor. Om Prakash, who is the husband of the present Appellant/Claimant, had lost the job during Covid and in order to earn his livelihood he had started running a small shop for making "Khat" (Cots) on the small space just out side the


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room on the ground floor. It has also proved that the Appellant/Claimant along with her husband & unmarried daughter, Jyoti, has been living on the ground floor and the family of one of her Hari Kishann has been living on the first floor of the said Jhuggi No. D-220 on the cutoff date of 01.01.2015. Thus the ground floor of the Jhuggi No. D-220 at the time of cutoff date of 01.01.2015 was & still being used for both residential and commercial purposes and accordingly the claim put forward by the present Appellant/Claimant has been fully covered under the condition contained in Part—B Paras No. 8 & 9 of DDA policy, which runs as under:

"8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose."

"9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person."

15. In view of our detailed discussion above, we have no hesitation in holding that the ground floor of the Jhuggi No. D-220, which comprised of a room & Kitchen, was not used exclusively for commercial purposes on the cutoff date of 01.01.2015 but it was put to mixed used for commercial & residential purposes as Om Parkash has been making cots in shop like structure just outside his room on the ground floor whereas he along with his wife Savitri (Appellant/Claimant) & daughter Jyoti, has been living on the ground floor and the same has been duly substantiated by the video clips prepared by the survey team. Thus the ground floor of the Jhuggi No. D-220 at the time of cutoff date of 01.01.2015 was & still being used for both residential & commercial purposes and accordingly the claim put forward by the present Appellant/Claimant has been fully covered under the condition contained in Part—B Paras No. 8 & 9 of DDA policy and accordingly the Appellant/Claimant fulfills the eligibility criteria for alternate allotment as per the guidelines issued by DDA.


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16. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
17. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-P, in support of her claim and prayed that DDA be directed to make allotment in her favour.
18. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

12. The JJ dwellers must be a citizen of India and not less than 18 years of age.
13. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
14. The name of ii dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
15. The name of the JJ dwellers must appear in the survey conducted by LM Department.
16. The 11 dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
17. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
18. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.

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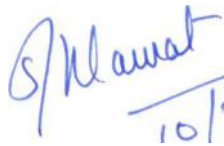
19. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
20. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
21. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
22. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

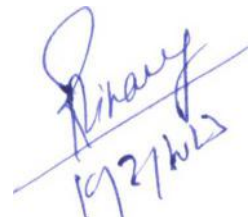
As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

19. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of 11 dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and


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also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

20.1n the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

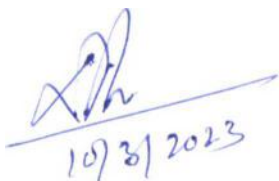
21. The Appellant/Claimant has tendered her two Voter ID Cards bearing No. DL/03/036/252416 (Annexure-A) & ARE 1193390 (Annexure-B), Aadhar Card (Annexure-C), Pan Card (Annexure-K), Voter List of the year 2012 (Annexure-L), Voter List of the year 2013 (Annexure-M), Voter List of the year 2014 (Annexure-N), Voter List of the year 2015 (Annexure-O) and Voter List of the year 2019 (Annexure-P).

22. It is pointed out that the Appellant/Claimant has tendered her two Voter ID Cards bearing No. DL/03/036/252416 (Annexure-A), which has been issued on 03.09.1995 and ARE 1193390 (Annexure-B), which has been issued on 27.10.2008. The first Voter ID Cards bearing No. DL/03/036/252416 (Annexure-A) was discontinued by the Election Commission and in its place new Voter ID Card of new series bearing No. ARE 1193390 (Annexure-B) was issued on 27.10.2008. Both the Voter ID Cards have been issued on the address of Jhuggi No. D-220 regarding which the Appellant/Claimant has been claiming allotment from DDA and further both the Voter ID Cards have also been issued much before the cutoff date of 01.01.2015. It is also pertinent to point out that the name of the Appellant/Claimant appears at SI. No. 633 in the Voter List of the year 2012 (Annexure-L), at SI. No. 633 in the Voter List of the year 2013 (Annexure-M), at SI. No. 775 in the Voter List of the year 2014 (Annexure-N), at SI. No. 846 in the Voter List of the year 2015

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(Annexure-O) and at SI. No. 958 in the Voter List of the year 2019 (Annexure-P). Further, all the abovementioned documents, Annexure-A to Annexure-C and Annexure-L to Annexure-P have been issued on Jhuggi No. D-220 regarding which the Appellant/Claimant has been claiming allotment from DDA. Thus we have no hesitation in holding that the Appellant/Claimant was having a valid Voter ID Card number ARE 1193390 (Annexure-B) on the cut off date of 01.01.2015 and further her name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA.

23. The Appellant/ Claimant has also tendered two Voter ID Cards bearing No. DL/03/035/252686 (Annexure-F) & ARE 1193382 (Annexure-G) and Aadhar Card (Annexure-D) of her husband Om Prakash as well as her Society Membership Certificate (Annexure-E). The Society Membership Certificate (Annexure-E) of the Appellant/ Claimant has been issued on 01.11.2015, much prior to the cutoff date of 01.01.2015. The first Voter ID Cards bearing No. DL/03/035/252686 (Annexure-F) issued on 04.02.1995 was discontinued by the Election Commission and in its place new Voter ID Card of new series bearing No. ARE 1193382 (Annexure-G) was issued on 16.12.2013. Both the Voter ID Cards have been issued on the address of Jhuggi No. D-220 regarding which the Appellant/Claimant has been claiming allotment from DDA and have also been issued much prior to the cutoff date of 01.01.2015. This shows that the Appellant/ Claimant as well as her husband Om Prakash were having valid Voter ID Cards much prior to the cutoff date of 01.01.2015 and the same have also been issued on the address of Jhuggi No. D-220 regarding which the Appellant/Claimant has been claiming allotment from DDA. This shows that all the abovementioned documents, Annexure-D to Annexure-G, have been issued on Jhuggi No. D-220 and have come into existence much prior to the cut off date of 01.01.2015 thereby showing that the Appellant/ Claimant & her family has been living since long and especially much prior to the cutoff date of 01.01.2015 in the Jhuggi No. D-220 regarding which the present Appellant/ claimant has claimed allotment from DDA. This


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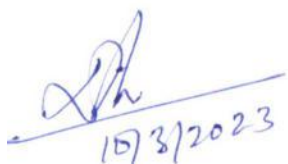
further shows that the Appellant/Claimant is having required documents and accordingly she fulfills the eligibility criteria as per the guidelines issued by DDA.

24. The Appellant/ Claimant has tendered her two Ration Cards (Annexure-H & Annexure-I).

The old Ration Card (Annexure-H) has been issued in the name of Om Prakash (husband of Appellant/ Claimant) on 31.07.2008 and the names of the family members, including that of Appellant/ Claimant, have been mentioned. The new Ration Card (Annexure-I) has been issued in the name of the present Appellant/ Claimant on 30.10.2014, much prior to the cutoff date of 01.01.2015. Both the Ration Cards have been issued on the address of Jhuggi No. D-220 regarding which she is claiming allotment from DDA. This shows that the present Appellant/ Claimant was also having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of Jhuggi No. D-220 regarding which she has claimed allotment from DDA and accordingly she fulfills the eligibility criteria as per the guidelines issued by DDA.

25. In the light of our detailed discussion above, we have no hesitation in holding that the Appellant/ Claimant was having all the requisite documents, including Voter ID card & Ration Card, on the cutoff date of 01.01.2015 and further her name also appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, she fulfills the eligibility criteria as per the guidelines issued by DDA.

26. The material placed on file shows that the ground floor of the Jhuggi No. D-220, which comprised of a room & Kitchen, was not used exclusively for commercial purposes on the cutoff date of 01.01.2015 but it was put to mixed used for commercial & residential purposes as Om Parkash has been making cots in shop like structure just outside his room on the ground floor whereas he along with his wife Savitri (Appellant/Claimant) & daughter Jyoti, has been living on the ground floor and the same has been duly substantiated by the video clips prepared by the survey team and further the Appellant/ Claimant was having all the requisite documents, including Voter ID card & Ration Card, on the cutoff date of 01.01.2015 and her name also appears in the voter list of the year's 2012, 2013, 2014 and


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2015 (prior to 01-01-2015) & also in the year of survey. Hence, we have no hesitation in holding that the ground floor of the Jhuggi No. D-220 at the time of cutoff date of 01.01.2015 was & still being used for both residential & commercial purposes and accordingly the claim put forward by the present Appellant/Claimant has been fully covered under the condition contained in Part—B Paras No. 8 & 9 of DDA policy and further the Appellant/ Claimant was having all the requisite documents, including Voter ID card & Ration Card, on the cutoff date of 01.01.2015 and her name also appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

27. In view of our findings above, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/ Claimant fulfills the eligibility criteria as per the guidelines issued by DDA but the Eligibility Determination Committee has wrongly and illegally rejected her claim. Hence the present Appeal No. 161 of 2022 stands allowed, hereby, setting aside the impugned order bearing No. 385/18/41.G/769 dated 07.11.2022. DDA is hereby directed to make allotment in favour of Appellant/ Claimant, Savitri W/o Om Prakash D/o Rishal Singh, in respect of ground floor of the Jhuggi No. D-220 Bhoomiheen Camp.

28. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

(Ranbli Singh)

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(Satish Ahlawat)

(Rachna Tiwary)

it. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 162 of 2022

Date of Institution: 23.11.2022

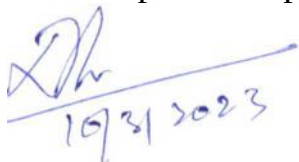
Date of Order: 10.03.2023

Present: Appellant/Claimant Hari Kishan S/o Om Parkash

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. D-220, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. D-220 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal


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Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/18/41.1/770 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 162 of 2022 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 22.02.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-j, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. D-220 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

7. The statement of the Appellant/Claimant has been recorded before us on 22.02.2023, wherein he has stated that his parents, Om Parkash & Savitri, are having two sons,

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namely, Jai Prakash and Hari Kishan (Appellant/Claimant) and four daughters, namely, Poonam, Kiran, Sapna & Jyoti. All the children except Jyoti are married. Poonam, Kiran and Sapna are living in their respective matrimonial homes. Jai Prakash is married with Vandana and having two children, Hansika & Neerav and they are living separately on rent somewhere in the Bhoomiheen Camp. Hari Kishan (Appellant/Claimant) is married with Neetu and having three children, Prachi, Kabir & Viraj.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. D-220 and it comprises of one room on each floor and a bamboo ladder is used for going to the first floor. His Parents Om Parkash & Savitri are living on the ground floor of Jhuggi No. D-220 and Om Parkash makes a living by making cots using bamboo etc. on the platform outside his Jhuggi on the ground floor. The Appellant/Claimant has stated that his mother Savitri had sought allotment from DDA but her claim has been rejected by EDC. Aggrieved by the same, Savitri has filed an Appeal No. 161 of 2022 before the Appellate Authority.
9. The Appellant/Claimant has stated that he along with his wife Neetu & three children has been living on the first floor of Jhuggi No. D-220 in Bhoomiheen Camp. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi but his claim has been rejected and accordingly aggrieved by the same he has filed the present Appeal No. 162 of 2022 before the Appellate Authority. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make alternative allotment in his favour as per the policy guidelines issued by DDA.
10. It is pointed out that Appeal No. 161 of 2022 and Appeal No. 162 of 2022 shall be decided separately on their individual merits.
11. DDA has furnished the survey records along with five video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 22.02.2023 wherein he has stated that in two video clips his mother Savitri is seen standing in her Jhuggi on the ground floor and her room & kitchen are also seen and further a small shop type structure outside her Jhuggi is also seen where his father Om Prakash used to make cots to earn his livelihood. In three video clips he (Hari Kishan-Appellant/Claimant) is seen in his Jhuggi on the first floor and his room & kitchen are

also seen and further a bamboo ladder placed outside the Jhuggi is also seen which has been used for going to the first floor. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey pucca Jhuggi No. D-220 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.

12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. D-220 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.

13. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

14. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

15. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is having a joint Ration Card with his mother, Savitri. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/18/41.1/770 dated 07.11.2022.

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16. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate') dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above. the JU dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

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- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor)AS PERDDA POLICY

17.As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18.As already pointed out above, condition contained in Part-B Para 10 of !)DA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."


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19. Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

20. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

21. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate ij dwellers would be as under :-

12. The JJ dwellers must be a citizen of India and not less than 18 years of age.

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13. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
14. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
15. The name of the JJ dwellers must appear in the survey conducted by LM Department.
16. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
17. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
18. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
19. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
20. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
21. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
22. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ T/OBC certificates issued by Competent Authority with photograph.

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- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

23.As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

24.As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

25.Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have

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only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

26.The bare perusal of the Policy shows that for claiming allotment for upper floor the II dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

27.In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

28.The Appellant/Claimant has tendered his Voter ID Card bearing number CXY 1505825 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), the Voter List of the year 2013 (Annexure-I) and the Voter Lists of the year 2019 (Annexure-J).

29.The Appellant/Claimant has tendered the Voter ID Card bearing number CXY 1505825 (Annexure-A), which has been issued on 13.12.2021, much after to the cut off date of 01.01.2015. The Appellant has categorically stated that his original Voter Id Card was got lost but it has been duly reflected in the Voter list of 2013 & 2019. It is pointed out that the name of the Appellant/Claimant appears at Si. No. 634 in the Voter List of the year 2013 (Annexure-1) and at Si. No. 959 in the Voter List of the year 2019 (Annexure-J) and in both the Voter lists it is mentioned that the Appellant/Claimant was having the Voter ID Card bearing number CXY 1505825. This shows that the Voter ID Card bearing number CXY 1505825 (Annexure-A) was very much in existence in the year 2013 as well as in the year 2019 and that is why it was reflected in the Voter List of the

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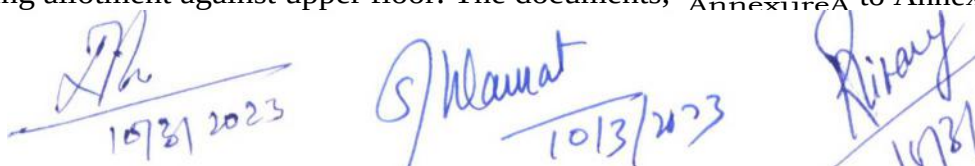
year 2013 (Annexure-I) and the Voter Lists of the year 2019 (Annexure-J). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and his name also appears in at least on the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

30.The Appellant/ Claimant has admitted that he is not having a separate Ration card on the address of the first floor of the said Jhuggi No. D-220 regarding which he is claiming allotment from DDA. He has tendered Joint Ration Card (Annexure-G), which has been issued, in the name of his mother Savitri on 30.10.2014 and in that the names of the family members, including that of the present Appellant/ Claimant, have been mentioned. But the fact remains that the Appellant/ Claimant is not having a separate Ration card despite of the fact that he is claiming allotment against the upper floor. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

31.The Appellant/Claimant has tendered the Voter ID Card bearing number ARE 2563427 (Annexure-D), Aadhar Card (Annexure-E) & Pan Card (Annexure-F) of his wife Neetu as well as his Bank Pass Book of Union Bank (Annexure-H).

32.It is pointed out that the Voter ID Card bearing number ARE 2563427 (Annexure-D) has been issued on 17.11.2022, much after to the cut off date of 01.01.2015. The bank Pass Book of Union Bank (Annexure-H) shows that the Appellant/ Claimant has opened the account on 16.02.2018, much after to the cut off date of 01.01.2015. The documents, Annexure-D to Annexure- F and Annexure-H, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above he was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

33.The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against upper floor. The documents, Annexure-A to Annexure-J, are



of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. D-220 regarding which he has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor

34. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/18/41.1/770 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

35. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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Jt. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

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**BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE
GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF 11
DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAIL**

Appeal No: 166 of 2022

Date of Institution: 23.11.2022

Date of Order: 10.03.2023

Present: Appellant/ Claimant Firoj Ahmad Sb o Lallan

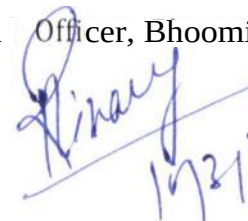
Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. D-14, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-14 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen


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Camp, duly communicated its order bearing No. 385/19/4.2/799 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 166 of 2022 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 22.02.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-Q, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-14 was found to exist on the upper floor but he had failed to submit required documents, i.e., a separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee (EDC) has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.
7. The statement of the Appellant/ Claimant, Firoj Ahmad, has been recorded before us on 22.02.2023, wherein he has stated that his parents, Lallan & Tfira, are having six


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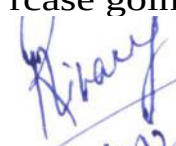

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sons, namely, Firoj Ahmad (Appellant/ Claimant), Sikandar, Muhid, Mansur, Saddam & Rahman and three daughters, namely, Nurjahan, Shahjahan & Shabnam. LaIllan has expired in 2009. All the children except Saddam are married. Nurjahan, Shahjahan & Shabnam are living in their respective matrimonial homes in Uttar Pradesh whereas Sikandar with his family is living in Mumbai and Rahman with his wife Shanu is living on rent in Bhoomiheen Camp. Mansur is married with Farin and Muhid is married with Shabana and having four children, Salman, Khushi, Sayma & Arman. Firoj Ahmad (Appellant/ Claimant) is married with Zainab and having two children, Altmas & Fatima.

8. The Appellant/ Claimant has stated that his family is having a four-storey Jhuggi No. D-14. His parents, LaIllan (till his death) & Tahira, along with Saddam, are living on the ground floor of the said Jhuggi No. D-14 and regarding that DDA has made allotment in favour of his mother, Tahira. The Appellant/ Claimant has also stated that his brother Muhid along with his wife Shabana and four children, Salman, Khushi, Sayma & Arman, is living on the first floor of the said Jhuggi No. D-14 but the claim of Muhid has been rejected by EDC. The Appellant/ Claimant has also stated that his brother Mansur with his family is living on the third floor of the said Jhuggi No. D-14 but he has not claimed allotment from DDA. These facts are not disputed by DDA.
9. The Appellant/ Claimant has further stated that he along with his wife Zainab and both the children, Altmas & Fatima, is living on the second floor of the said Jhuggi No. D-14. The Appellant/ Claimant has sought allotment from DDA. But his claim has been rejected by EDC and aggrieved by the same he has filed the present Appeal No. 166 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-Q, and prayed that DDA be directed to make allotment in his favour.
10. DDA has furnished the survey records along with seventeen video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 22.02.2023 wherein he has stated that in ten video clips his mother, Tahira, is seen in her Jhuggi on the ground floor and small shop situated outside the Jhuggi and further her room & kitchen are seen. In other three video clips his brother Muhid is seen on the first floor and the room & kitchen as well as pucca rcase going to the


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second floor are also seen. Further in the remaining four video clips he (Firoj Ahmad-Appellant/Claimant) is seen in his Jhuggi on the second floor and the room & kitchen are also seen. However, there is no video of third floor because Mansur had not submitted claim against the said third floor. There is nothing to disbelieve the statement of the to the effect that Jhuggi No. D-14 is four-storey structure. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the four-storey pucca Jhuggi No. D-14 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the second floor of the said Jhuggi for residential purposes.

11. Accordingly, we have no hesitation in holding that the Jhuggi No. D-14 in Bhoomiheen Camp is a pucca four-storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant has been using the second floor of the said Jhuggi for residential purposes.

12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.

13. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cutoff date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor and further he was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/19/4.2/799 dated 07.11.2022.

14.First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

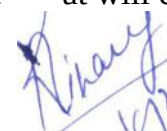
"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi is being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purpose at will entitle him


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for one residential plot only, if such commercial and residential unit is occupied by the same person.

10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/O BC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

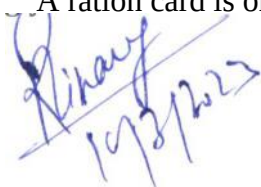
**DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor)
AS PER DDA POLICY**

15. As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and according to the policy. A ration card is one


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of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

16. It is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part-B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

17. It is pointed out that in the policy the words *"First Floor or Second Floor or Third Floor"* are intentionally not used but the word *"Upper Floor"* is used. So in the cases where the Jhuggi is double storey there is no confusion because the *"First Floor"* of that Jhuggi without confusion is covered under the definition of *"Upper Floor"*. But in the cases where the Jhuggi is constructed more than double storey, then dispute arises with respect to the definition of *"Upper Floor"*. The moot question involved is whether the dwellers living on the second floor or third floor, akin to the dweller living on the first floor, shall also be entitled for alternative allotment if they possess requisite documents or not. In simple terms whether the word *"Upper Floor"* only connotes the *"First Floor"* or it also includes *"Second Floor"* & *"Third Floor"* of the Jhuggi.

18. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card and there is no doubt instead of using the word *"First Floor"* the word *"Upper Floor"* has been used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further expanded to include the dweller living on the second & third floors. Furthermore, the words *"Upper Floor"* cannot be interpreted to be used in plural as *"Upper Floors"* by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -

"13. Gender and number:- In all Central Acts and Regulations unless there is anything repugnant in the subject or context,-

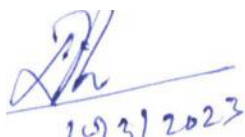
(1) words importing the masculine gender shall also be taken to include females; and

(2) words in the singular shall include the plural, and vice versa.

19. The bare perusal of Part-B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

20. Thus we have no hesitation in holding that the words *"Upper Floor"* used in the DDA policy without confusion connotes and includes only the "First Floor" of the Jhuggi. Thus the "Second Floor" & "Third Floor" of the Jhuggi are not included in the definition of the words *"Upper Floor"* used in the policy. In simple terms the word "Upper Floor" only connotes the "First Floor" of the Jhuggi and it does not include the "Second Floor" & "Third Floor" of the Jhuggi.

In view of the matter the words "upper floor" used in Part-B Para 10 of the DDA policy only denotes first floor and not all the floors above the first floor meaning thereby that the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.


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21. Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015.

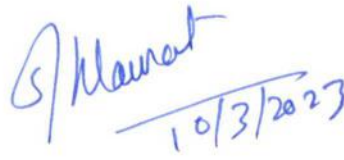
GIST OF THE POLICY

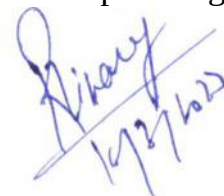
22. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further whether the Appellant/Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

24. At the very outset it is pointed out that as per our discussion in detail above, we have held that the second floor is not covered under the definition of "Upper Floor" under the policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines


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issued by DDA because she has claimed allotment against the second floor, which is not included in the definition of upper floor under Part-B Para 10 of the policy.

25. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

26. The Appellant/Claimant has tendered his two Voter ID Cards bearing same number ARE 1441302 (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), Pan Card (Annexure-D), Voter List of the year 2014 (Annexure-M) & Voter List of the year 2019 (Annexure-N).

27. It is pointed out that both the Voter ID Cards bearing same number ARE 1441302 (Annexure-A & Annexure-B) have been issued on the address of Jhuggi No. D-14. The first Voter ID Card bearing number ARE 1441302 (Annexure-A) has been issued on 01.02.2011, much prior to the cutoff date of 01.01.2015 and the second Voter ID Card was issued on 13.12.2021. Further, the name of the Appellant/Claimant appears at SI. No. 60 the Voter List of the year 2014 (Annexure-M) and at SI. No. 152 in the Voter List of the year 2019 (Annexure-N) in which Voter ID Card bearing number ARE 1441302 is mentioned. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

28. The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the second floor bearing No. D-14 regarding which he has claimed allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-O) issued in the name of his mother Tahira in which the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. However, the date of issuance is not mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the second fl — beari g No. D-14

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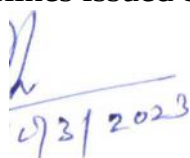
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regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor inspite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

29. The Appellant/Claimant has tendered his Passport (Annexure-E) issued on 18.06.2013, Pass Book of PNB (Annexure-F) showing opening of account on 21.02.2008, Driving License (Annexure-G) issued on 29.12.2020 as well as the Voter ID Card No. ARE 2565489 dated 14.12.2021 (Annexure-H), Aadhar Card (Annexure-I) & Pan Card (Annexure-J) of his wife Jainab and Aadhar Cards (Annexure-K & Annexure-L) of his children, Altmas & Arif and Electricity Bill (Annexure-P) showing the connection as taken by the Appellant/Claimant on 09.11.2022. The documents, Annexure-E to Annexure-P, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015.

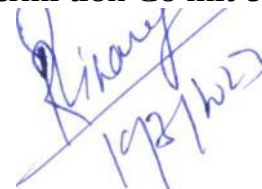
30. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part-B Para 10 of the policy. The documents, Annexure-A to Annexure-P, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. D-14 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part-B Para 10 of the policy and further he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

31. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has


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rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/19/4.2/799 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

32. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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Rachna Tiwary
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(Rannir Singh)

(Satish Ahlawat)

(Rachna Tiwary)

Jt. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI

Appeal No: 192 of 2022

Date of Institution: 23.11.2022

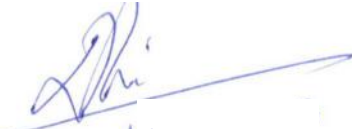
Date of Order: 10.03.2023

Present: Appellant/ Claimant Urmila W/o Dhram Das D/o Harishankar

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. A-306, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-306 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/60/6.11.F/1242 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved


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by the same, the present Appeal No. 192 of 2022 has been filed by the present Appellant/Claimant.

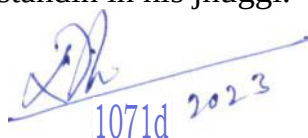
3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 17.01.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing A-306 was found to exist on the upper floor but she had failed to submit required documents, i.e., a separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be "**No Separate Ration Card for Upper Floor Jhuggi**" and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

7. The Appellant/Claimant has stated that her in laws, Hanu mat & Kashi Bai, are having two sons, Rakesh & Dharam Das and one daughter, Lalita. All the children are married. Rakesh is married with Lila and having two children, Chandan & Dhruva. Dharam Das

is married with Urmila and having two children, Krishna & Harshita. Lalita is married with Babu Sahu and she is living in her matrimonial home in Madhya Pradesh.

8. The Appellant/Claimant has stated that her family is having a double-storey Jhuggi bearing No. A-306 and it comprised of one room on the ground floor and two rooms on the first floor and further one pucca staircase from gali was used for going to the upper floors. The Appellant/Claimant has stated that her in-laws, Hanumat & Kashi Bai are living on the ground floor of jhuggi no. A-306 and regarding that DDA has made allotment in favour of her Mother-in-law Kashi Bai. These facts are not disputed by DDA.
9. The Appellant/Claimant has also stated that Rakesh along with his family is living in the first room on the first floor of the said Jhuggi No. A-306. Rakesh has sought allotment from DDA but his claim has been rejected by EDC and aggrieved by the same, he has filed appeal before the Appellate Authority. It is pointed out that the appeal filed by Rakesh shall be decided separately on its individual merit.
10. The Appellant/Claimant has further stated that she along with her husband Dharam Das & children Krishna & Harshita, is living in the second room on the first floor of the Jhuggi No. A-306. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi but her claim has been rejected by EDC and aggrieved by the same, she has filed the present Appeal no. 192 of 2022 before the Appellate Authority. The Appellant/Claimant has furnished documents, Annexure A to Annexure K, in support of her claim and prayed that DDA be directed to make allotment in her favour as per the policy guidelines issued by DDA.
11. DDA has furnished the survey record along with four video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 17.01.2023 wherein she has stated that in the first video clip her in-laws, Hanumat & Kashi Bai are seen in their jhuggi on the ground floor and her room as well as kitchen are also seen. Further, in the remaining two video clips, the pucca staircase going to the first floor is seen and the Appellant/Claimant is also seen standing in her jhuggi on the first floor and further her room & kitchen are also seen. In fourth video, Rakesh is also seen standing in his jhuggi.


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12. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca double storey Jhuggi of the family of the Appellant/Claimant bearing Jhuggi No. A-306 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/ Claimant & her family used the first floor of the said Jhuggi for residential purposes.
13. Accordingly, we have no hesitation in holding that the Jhuggi No. A-306 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further the Appellant/ Claimant & her family have been using the first floor of the said Jhuggi No. A-306 for residential purposes.
14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.
15. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make allotment in her favour.
16. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015 but having a joint Ration Card with her mother-in-law, Kashi Bai. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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Accordingly, there is no illegality in the impugned rejection order bearing No. 385/60/6.11.F/1242 dated 07.11.2022.

17. **First** of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate 1J dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/Ji dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18.As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGG1 AS PER DDA POLICY

19.As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

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"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

20. Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

23. The Appellant/Claimant has tendered her Voter ID Card bearing number ARE 1130376 (Annexure-A), Aadhar Card (Annexure-B) and Pan Card (Annexure-C).


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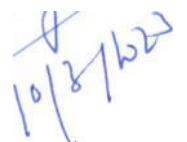
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24. The Appellant/Claimant has tendered her Voter ID Card bearing number ARE 1130376 (Annexure-A), which has been issued on 27.10.2008, much prior to the cutoff date of 01.01.2015. But it is pertinent to point out that the Appellant/Claimant has not tendered the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also of the year of survey, to show that she had casted her vote by using Voter ID Card bearing number 1130376 (Annexure-A). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 but there is no material to show that her name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.
25. The Appellant/Claimant has admitted that she is not having a separate Ration Card on the address of first floor of the Jhuggi No. A-306 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-K) issued in the name of her mother-in-law, Kashi Bai and in that the names of the family members, including that of the present Appellant/Claimant, have been recorded. However, the date of issuance is not mentioned. But the fact remains that the Appellant/Claimant is not having a separate Ration Card on the address of first floor of the Jhuggi No. A-306 regarding which she is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.
26. The Appellant/Claimant has tendered the Voter ID Card bearing number ARE 1139716 (Annexure-D), Aadhar Card (Annexure-E), Pan Card (Annexure-F), Driving License (Annexure-G) & OBC Certificate (Annexure-!-!) of her husband Deepak as well as the Gas Bill (Annexure-I) and Electricity Bill (Annexure-J). The Voter ID Card bearing number ARE 1139716 (Annexure-D) has been issued on 27.10.2008. The Gas Bill (Annexure-I) shows that the connection has been taken by the husband of the Appellant/Claimant on 15.10.2011 and the Electricity Bill (Annexure-J) shows that the electricity connection has been taken by on 31.05.2008 in the name of her father-in-law Hanumat, thereby, showing that the Appellant/Claimant was not having electricity connection on the address of first floor of the Jhuggi No. A-306 regarding which she is


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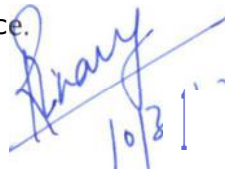

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claiming allotment from DDA. The documents, Annexure-D to Annexure-j, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above she was not having a separate Ration Card on the cut off date of 01.01.2015 and her name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and her name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey. The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 her name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.
28. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/60/6.11.F/1242 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.
29. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.


(Ranbir Singh⁴)

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(Satish Ahlawat)


(Rachna Tiwari)

Jt. Secretary (Retd.) GOI

Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 81 of 2022

Date of Institution: 21.11.2022

Date of Order: 13.03.2023

Present: Appellant/ Claimant Sanju W/o Raj Kumar D/o Sankar Shah

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. A-142A, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-142A was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/66/42.1.1/1481 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved


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by the same, the present Appeal No. 81 of 2022 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 10.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-142A was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The Appellant/Claimant has stated that her in-laws, Vinod & Manju, are having two sons, namely, Raj Kuamr & Kapil and two daughters, namely, dia & Madhu. All the


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children are married. Both the sisters Gudia & Madhu are living in their respective matrimonial homes in Bihar and Punjab. Kapil is married with Kavita and having one daughter, Krishti. Raj Kumar is married with Sanju (Appellant/Claimant) and having two children, Shrishti & Diyanish.

8. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. A-142A and it comprised of one room on each floor. Her in-laws, Vinod & Manju, along with the family of their son Kapil, are living on the ground floor of the said Jhuggi No. A-142A and DDA has made allotment in favour of her mother-in-law, Manju. These facts are not disputed by DDA.
9. The Appellant/Claimant has also stated that she along with her husband Raj Kumar & both the children, Shrishti & Diyanish, is living on the first floor of the said Jhuggi bearing Jhuggi No. A-142A. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-142A but her claim has been wrongly rejected by DDA and aggrieved by the same she has filed the present Appeal for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-J, in support of her claim and prayed that DDA be directed to make alternative allotment in her favour as per the policy guidelines issued by DDA.
10. DDA has furnished the survey records along with six video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 10.03.2023 wherein she has stated that in three video clips her mother-in-law, Manju, is seen in her Jhuggi on the ground floor and further her room & kitchen are also seen. Whereas in the remaining three video clips she (Sanju- Appellant/Claimant) is seen in her Jhuggi on the first floor of Jhuggi No. A-142A and further a room and a kitchen on the first floor are also seen in those video clips. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca double storey Jhuggi of the family of the Appellant/Claimant bearing Jhuggi No. A-142A was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/ Claimant & her family used the first floor of the said Jhuggi for residential purposes.

Sanju
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Manju
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11. Accordingly, we have no hesitation in holding that the Jhuggi No. A-142A in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further the Appellant/ Claimant & her family have been using the first floor of the said Jhuggi No. A-12 for residential purposes.
12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
13. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-L, in support of her claim and prayed that DDA be directed to make allotment in her favour.
14. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-12 regarding which she is claiming allotment from DDA. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/66/42.1.1/1481 dated 07.11.2022.
15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:



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"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate 11 dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the Jj dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.


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- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/Ji dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

16.As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17.As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18.Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment

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against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

19. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
20. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
21. The Appellant/Claimant has tendered her Voter ID Card (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2012 (Annexure-I), Voter List of the year 2013 (Annexure-J), Voter List of the year 2014 (Annexure-K) and Voter List of the year 2019 (Annexure-L).
22. The Appellant/Claimant has tendered the Voter ID Card bearing number ARE 1129238 (Annexure-A), which has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at S. No. 591 in the Voter list of the year 2012 (Annexure-I), at SI. No. 591 in the Voter List of the year 13


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(Annexure-J), at SI. No. 623 in the Voter list of the year 2014 (Annexure-K) and at SI. No. 782 in the Voter list of the year 2019 (Annexure-L). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23.The Appellant/ Claimant has admitted that she is not having a separate Ration card on the address of the first floor of the said Jhuggi No. A-142A regarding which she is claiming allotment from DDA. The admission of the Appellant/ Claimant is a clincher piece of evidence to show that she is not having a separate Ration card despite of the fact that she is claiming allotment against the upper floor. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

24.The Appellant/Claimant has tendered the Voter ID Card No. ARE 1129220 (Annexure-D), Aadhar Card, (Annexure-E), Pan Card (Annexure-F) of her husband Raj Kumar as well as the Electricity Bill (Annexure-G) and her Pass Book of 1013 (Annexure-H).

25.It is pointed out that the Voter ID Card bearing number ARE 1129220 (Annexure-D) been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The Electricity Bill (Annexure-G) shows that the connection has been taken by her father-in-law, Vinod on 18.06.2008 and the Appellant/ Claimant was not having any connection on the first floor of the Jhuggi No. A-142A regarding which she is claiming allotment from DDA. The Pass Book of 10B (Annexure-H) shows that the account was opened by the Appellant/ Claimant on 12.09.2014. But it is pertinent to point out that the documents, Annexure-D to Annexure-H, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA DDA because as per our discussion above she was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she is claiming allotment against the upper floor.

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26. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015. The documents, Annexure-A to Annexure-L, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. A-142A regarding which she has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

27. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/66/42.1.1/1481 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

28. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.



(Ranbi Ingh)

Jt. Secretary (Retd.) GOI

MEMBER



(Satis Ahlawat)

Addl. District & Sessions Judge (Retd.)

CHAIRMAN



(Rachna Tiwary)

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 132 of 2022

Date of Institution: 22.11.2022

Date of Order: 13.03.2023

Present: Appellant/ Claimant Lila Devi W/o Durga Nath Pathak D/o Rajni Kant Jha

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. A-12, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-12 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/66/24.1.1/1466 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 132 of 2022 has been filed by the present Ap lant/C1 imant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 10.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-12 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The Appellant/Claimant has stated that her parents, Raj Kant Jha & Sonu, are having one son, namely, Shiv Kumar and two daughters, namely Triveni & Lila Devi (Appellant/Claimant). Raj Kant Jha has expired about 20 years ago. Her mother Sonu is living in Bihar. All the children are married. Shiv Kumar had entered into first marriage with Pushpa and two children, Chandan & Anshu were born of the wedlock. After

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the death of Pushpa, Shiva Kumar has entered into second marriage with Mannu and one son, Vansh, was borne out of the wedlock. Both the sisters Triveni and Lila were married with real brothers, namely Raj Narain Pathak and Durga Nath Pathak. Triveni and Raj Narain Pathak are having one son, Laxman. Raj Narain Pathak had expired long ago and Triveni had also died on 06.12.2022. Lila Devi and Durga Nath Pathak are having five children.

8. The Appellant/Claimant has stated that his brother Shiv Kumar is having a double storey Jhuggi No. C-105 and DDA has made allotment in favour of Mannu W/o Shiv Kumar against the ground floor of Jhuggi No. C-105. But the claim of Chandan S/o Shiv Kumar against the first floor of the said Jhuggi No. C-105 was rejected by EDC and aggrieved by the same Chandan had filed Appeal No. 05 of 2022 but the said Appeal has also been dismissed by the Appellate Authority on 24.02.2023. These facts are not disputed by DDA.
9. The Appellant/Claimant has stated that Jhuggi No. A-12 is a double storey structure and her real sister Triveni widow of Raj Narain Pathak along with her son Laxman was living on the ground floor of the said Jhuggi No. A-12 and DDA has made allotment in favour of Lila widow of Raj Narain Pathak against the ground floor of Jhuggi No. A-12. Triveni had also died on 06.12.2022 and consequent upon her death the mutation case of Laxman is pending with DDA authority. These facts are not disputed by DDA.
10. The Appellant/Claimant has also stated that she along with her husband Durga Nath Pathak & five children, is living on the first floor of the said Jhuggi bearing Jhuggi No. A-12. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-12 but her claim has been wrongly rejected by DDA and aggrieved by the same she has filed the present Appeal for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-J, in support of her claim and prayed that DDA be directed to make alternative allotment in her favour as per the policy guidelines issued by DDA.
11. DDA has furnished the survey records along with one video clip. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 10.03.2023 wherein she has stated that in the video clip she (Lila Devi-


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Appellant/Claimant) is seen in her Jhuggi on the first floor of Jhuggi No. A-12 and further a room and a kitchen on the first floor are also seen in that video clip. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca double storey Jhuggi of the family of the Appellant/Claimant bearing Jhuggi No. A-12 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/ Claimant & her family used the first floor of the said Jhuggi for residential purposes.

12. Accordingly, we have no hesitation in holding that the Jhuggi No. A-12 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further the Appellant/ Claimant & her family have been using the first floor of the said Jhuggi No. A-12 for residential purposes.

13. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

14. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-J, in support of her claim and prayed that DDA be directed to make allotment in her favour.

15. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-12 **regarding which she is**

claiming allotment from DDA. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/66/24.1.1/1466 dated 07.11.2022.

16. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
- 10 If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.


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11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

17.As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18.As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

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"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

19. Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This makes it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

20. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

21. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.


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22. The Appellant/Claimant has tendered her Voter ID Card (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of 2013 (Annexure-I) and Voter List of 2019 (Annexure-J).
23. The Appellant/Claimant has tendered the Voter ID Card bearing number ARE 1131655 (Annexure-A), which has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The Appellant/Claimant has also tendered the Voter list of the year 2013 (Annexure-I) in which her name appears at SI. No. 130 and the Voter list of the year 2019 (Annexure-J) in which her name appears at SI. No. 244. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
24. The Appellant/ Claimant has admitted that she is not having a separate Ration card on the address of the first floor of the said Jhuggi No. A-12 regarding which she is claiming allotment from DDA. The admission of the Appellant/ Claimant is a clincher piece of evidence to show that she is not having a separate Ration card despite of the fact that she is claiming allotment against the upper floor. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.
25. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1131663 (Annexure-D), Aadhar Card, (Annexure-E) & Pan Card (Annexure-F) of her husband Durga Nath Pathak as well as her Pass Book of PNB (Annexure-G) and the Electricity Bill (Annexure-H).
26. It is pointed out that the Voter ID Card bearing number ARE 1131663 (Annexure-I) been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The Pass Book of PNB (Annexure-G) shows that the account was opened by the Appellant/ Claimant on 14.13.2012. The Electricity Bill (Annexure-H) shows that the connection has been taken by her sister Triveni on 04.07.2008 and the Appellant/ Claimant was not having any connection on the first floor of the Jhuggi No. A-21 regarding which she is claiming allotment from DDA. But it is pertinent to point out that the documents, Annexure-D to

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Annexure-H, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above she was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she is claiming allotment against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. A-12 regarding which she has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

28. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/66/24.1.1/1466 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

29. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Raribir Singh)

(Satis Ahlawat)

(Rachna Tiwary)

t. Secretary (Retd.) GOI

Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

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BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF LI DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 154 of 2022

Date of Institution: 23.11.2022

Date of Order: 13.03.2023

Present: Appellant/ Claimant Deepali Pramanik W/o Dinesh D/o Vijay Munia

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

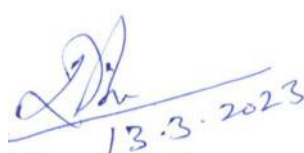
1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. B-677, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of II Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to II Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-677 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/10/14.G/683 dated 07.11.2022 to the present Appellant/ C,l,ajmant. Aggrieved by

the same, the present Appeal No. 154 of 2022 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 07.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-677 was found to exist on the upper floor but she had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

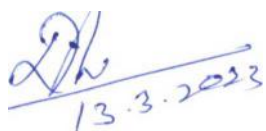
Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/ Claimant, Deepali Pramanik, has been recorded before us on 07.03.2023, wherein she has stated that her in-laws, Basude Pramanik & Parul, are

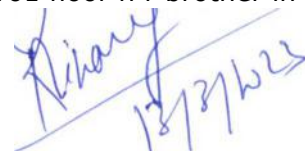
  

having five sons, namely, Deepankar, Deepak, Dinesh, Dilip & Diwkar. Basudev had expired about 20 years ago and Parul had expired about 6-7 years ago. All the children are married. Diwkar had married with Shefali but he had expired about 4-5 years ago and after his death Shefali is living in West Bengal. Dilip was married with Radha but his whereabouts are not known for the last over 18 years and now Radha is also living in West Bengal. Deepak was married with Disha and having one son Arindam. Deepankar was married with Pallavi. Dinesh was married with Deepali (Appellant/ Claimant) and having two daughters Rekha and Rakhi. Dinesh had expired about 15 years ago.

8. The Appellant/ Claimant has stated that her family is having a triple storey Jhuggi No. B-677. Her brother-in-law Deepak along with his family is living on the ground floor of the said Jhuggi No. B-677 and regarding that DDA has made allotment in favour of Deepak. These facts are not disputed by DDA.
9. The Appellant/ Claimant has also stated that Deepankar along with his wife Pallavi is living on the second floor of the said Jhuggi No. B-677 and he has sought allotment from DDA against the second floor. But his claim has been rejected by DDA and aggrieved by the same he has filed Appeal No. 353 of 2023 before the Appellate Authority for redressal.
10. The Appellant/ Claimant has also stated that she along with her two daughters is living on the first floor of the said Jhuggi No. B-677. The Appellant/ Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. B-677. But her claim has been rejected by DDA and aggrieved by the same she has filed Appeal No. 154 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-I, and prayed that DDA be directed to make allotment in her favour.
11. It is pointed out that both the Appeal No. 154 of 2022 and the Appeal No. 353 of 2023 shall be decided separately on the respective merits.
12. DDA has furnished the survey records along with 18 video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 07.03.2023 wherein she has stated that in the six video clips of ground floor her brother in-


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law, Deepak, is seen in his Jhuggi on the ground floor and his room & kitchen are also seen. In the next 6 video clips of first floor a pucca staircase going to the upper floor is also seen and she (Deepali- Appellant/Claimant) is seen on the first floor and her room & kitchen are also seen. Further in the remaining six video clips Deepankar is seen in his Jhuggi on the second floor and a room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. B-677 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.

13. Accordingly, we have no hesitation in holding that the Jhuggi No. B-677 in Bhoomiheen Camp is a pucca triple storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.
14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
15. It is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of 1.1 Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card but having a joint Ration Card issued in the name of her mother-in-law Parul. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by

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DDA because she was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/10/14.G/683 dated 07.11.2022.

16. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The .1.1 dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the 11 cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

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As envisaged in para above, the 1.1 dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

17. As per Part—B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18. As already pointed out above, condition contained in Part—B Para 10 of DDA policy runs as under:

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10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

19. Thus Part—B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

20. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

21. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1163385 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2014 (Annexure-H) & Voter List of the year 2019 (Annexure-I).

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23. It is pointed out that the Voter ID Card bearing No. ARE 1163385 (Annexure-A) has been issued on 27.10.2008, much prior to the cutoff date of 01.01.2015. Further the name of the Appellant/Claimant appears at SI. No. 1186 in the Voter List of the year 2014 (Annexure-H) and at SI. No. 1216 in the Voter List of the year 2019 (Annexure-I). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
24. The Appellant/Claimant has admitted that she is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. B-677 regarding which she has claimed allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-F) issued in her name on 22.08.1996. It is pointed out that the Appellant/Claimant has placed the Photostat copy of the Ration Card but has failed to show the original document. The Appellant/Claimant has specifically stated that this Ration Card is not a genuine document and she has never drawn any ration by using the Ration Card Annexure-F. This shows that the Appellant/Claimant has tried to seek allotment from DDA by using a forged document.
25. The Appellant/Claimant has tendered the new Ration Card (Annexure-G) issued on 04.12.2014 in the name of her mother-in-law, Parul, and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor bearing No. B-677 regarding which she is claiming allotment from DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.
26. The Appellant/Claimant has tendered her Pass Book of PNB (Annexure-D) and Electricity Bill (Annexure-E). The Pass Book of PNB (Annexure-D) shows that the Appellant/Claimant has opened the account on 26.07.2003. The Electricity Bill (Annexure-E) shows that the connection was issued on 22.04.2019 much after the cutoff date of 01.01.2015. The abovementioned documents, Annexure-D & Annexure-E, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in

her favour to claim allotment from DDA because as per our discussion above she was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she is claiming allotment against the upper floor.

27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she has claimed allotment against the first floor. The documents, Annexure-A to Annexure-I, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. B-677 regarding which she has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

28. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/10/14.G/683 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

29. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Rachna Tiwary)

it. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 186 of 2022

Date of Institution: 23.11.2022

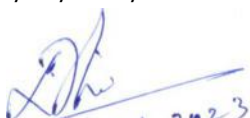
Date of Order: 13.03.2023

Present: Appellant/ Claimant Preeti Burman W/o Rahul Burman

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. B-541, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-541 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/44/67.1/1093 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by


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the same, the present Appeal No. 186 of 2022 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 10.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-541 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The Appellant/Claimant has stated that her in-laws, Vijay Burman & Pushpa, are having one son, namely, Rahul and four daughters, namely Laxmi, Kiran, Bhawani & Durga. Vijay Burman, h^{is} expired on 28.02.2022. All the children are married. All e three daug ers,

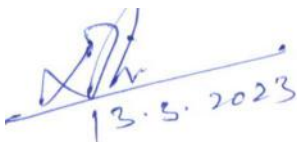
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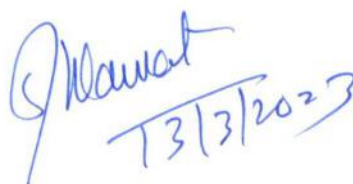
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namely Laxmi, Kiran & Bhawani are living in their respective matrimonial homes whereas Durga is living with her parents in Bhoomiheen Camp. Rahul is married with Preeti (Appellant/Claimant) and having two children, Rishab & Priyanshu.

8. The Appellant/Claimant has stated that her family is having a triple storey Jhuggi No. B-541. Her mother-in-law Pushpa along with her daughter Durga is living on the ground & first floors of Jhuggi No. B-541 and regarding that DDA has made allotment in favour of his mother-in-law Pushpa. These facts are not disputed by DDA.
9. The Appellant/Claimant has also stated that she along with her husband Rahul & both the children, Rishab & Priyanshu, is living on the first floor of the said Jhuggi bearing Jhuggi No. B-541. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. B-541 but her claim has been wrongly rejected by DDA and aggrieved by the same she has filed the present Appeal for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-K, in support of her claim and prayed that DDA be directed to make alternative allotment in her favour as per the policy guidelines issued by DDA.
10. DDA has furnished the survey records along with seven video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 10.03.2023 wherein she has stated that in the first video clip her mother-in-law Pushpa is seen in her Jhuggi on the ground floor whereas in the other six video clips she (Preeti-Appellant/Claimant) is seen in her Jhuggi on the first floor of Jhuggi No. B-541 and an iron ladder going to the first floor is also seen. Further a room and a kitchen on the first floor are also seen in these video clips. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca triple storey Jhuggi of the family of the Appellant/Claimant bearing Jhuggi No. B-541 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/ Claimant & her family used the first floor of the said Jhuggi for residential purposes.
11. Accordingly, we have no hesitation in holding that the Jhuggi No. B-541 in Bhoomiheen Camp is a pucca triple storey structure and it was in existence much prior to the cutoff date


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of 01.01.2015 and further the Appellant/ Claimant & her family have been using the first floor of the said Jhuggi No. B-541 for residential purposes.

12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
13. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-K, in support of her claim and prayed that DDA be directed to make allotment in her favour.
14. It is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-541 regarding which she is claiming allotment from DDA. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/44/67.1/1093 dated 07.11.2022.
15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and .1.1 Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Pa rt-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

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1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of .1.1 dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the Ji dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. 1.1 dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible 11 dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of 11Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.

- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/Ji dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

16. As per Part—B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17. As already pointed out above, condition contained in Part—B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18. Thus Part—B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, nainely, ration card issued before 01.01.2015. Therefore, it is mandatory for the

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dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

19. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
20. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
21. The Appellant/Claimant has tendered her Voter ID Card (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of 2015 (Annexure-J) and Voter List of 2019 (Annexure-K).
22. The Appellant/Claimant has tendered the Voter ID Card bearing number ARE 1885440 (Annexure-A), which has been issued on 25.03.2014, much prior to the cut off date of 01.01.2015. The Appellant/Claimant has also tendered the Voter list of the year 2015 (Annexure-J) in which her name appears at SI. No. 1213 and the Voter list of the year 2019 (Annexure-K) in which her name appears at SI. No. 955. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

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23. The Appellant/ Claimant has admitted that she is not having a separate Ration card on the address of the first floor of the said Jhuggi No. B-541 regarding which she is claiming allotment from DDA. The Appellant/ Claimant has tendered the joint Ration Card (Annexure-I), which has been issued in the name of her mother-in-law, Pushpa, and the names of the family members, including that of the present Appellant/ Claimant, have been mentioned. This Ration Card (Annexure-I) has been issued on 02.03.2015, much after the cut off date of 01.01.2015. The Appellant/ Claimant has stated that she had applied for issuance of the Ration Card in the year 2015 but till now no Ration Card has been issued. But the fact remains that the Appellant/ Claimant is not having a separate Ration card despite of the fact that she is claiming allotment against the upper floor. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.
24. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1159599 (Annexure-D), Aadhar Card, (Annexure-E), Pan Card (Annexure-F) and Driving License (Annexure-G) dated 15.11.2011 of her husband Rahul as well as her Pass Book of PNB (Annexure-H).
25. It is pointed out that the Voter ID Card bearing number ARE 1159599 (Annexure-D) been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The Driving License (Annexure-G) has been issued on 15.11.2011. The Pass Book of PNB (Annexure-H) shows that the account was opened by the Appellant/ Claimant on 04.12.2021. But it is pertinent to point out that the documents, Annexure-D to Annexure-H, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above she was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she is claiming allotment against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.
26. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015. The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do n create ny right,

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title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. D-541 regarding which she has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

27. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/44/67.1/1093 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

28. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Satish Ahlawat)

(Rachna Tiwary)

it. Secretary (Retd.) GOI

Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 78 of 2022

Date of Institution: 21.11.2022

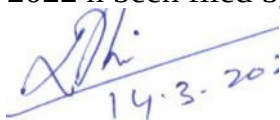
Date of Order: 14.03.2023

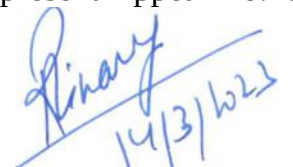
Present: Appellant/ Claimant Bablu Kumar S/o Ramjit Singh

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

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1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. D-101, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-101 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/64/75.1/1431 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No.78 of 2022 has been filed by the present Appellant/ Claimant.


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3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 20.01.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-Q, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-101 was found to exist on the upper floor but he had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/ Claimant, Bablu Kumar, has been recorded before us on 20.01.2023, wherein he has stated that his parents, Ramjit Singh & Bimla, are having two sons, namely, Dinesh & Bablu Kumar (Appellant/Claimant) and one daughter, namely, Suman. All the children are married. Dinesh is married with Kalpana

and having two children, Utkarsh & Akash and they are living on rent in Jasola, Delhi. Suman is married with Raj Kumar and she is living in her matrimonial home in Nand Nagri. Whereas Bablu Kumar (Appellant/Claimant) is married with Sunita and having three children, namely, Minakshi, Darshya & Lakshya.

8. The Appellant/ Claimant has stated that his family is having a double storey Jhuggi No. D-101. His parents, Ramjit Singh & Bimla, are living on the ground floor of the said Jhuggi No. D-101 and regarding that DDA has made allotment in favour of his mother Bimla. These facts are not disputed by DDA.
9. The Appellant/ Claimant has also stated that he along with his wife, Sunita & three children, namely, Minakshi, Darshya & Lakshya, is living on the first floor of the said Jhuggi No. D-101. The Appellant/ Claimant has sought allotment from DDA. But his claim has been rejected by DDA and aggrieved by the same he has filed Appeal No. 78 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-Q, and prayed that DDA be directed to make allotment in her favour.
10. DDA has furnished the survey records along with 11 video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 20.01.2023 wherein he has stated that in six video clips parents, Ramjit Singh & Bimla, are seen in their Jhuggi on the ground floor and in five video clips his wife Sunita is seen on the first floor and his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey pucca Jhuggi No. D-101 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.
11. Accordingly, we have no hesitation in holding that the Jhuggi No. D-101 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant & his family has been using the first floor of the said Jhuggi for residential purposes.


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1 z. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

13. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-Q, in support of his claim and prayed that DDA be directed to make allotment in his favour.

14. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card but having a joint Ration Card issued in the name of his mother, Bimla. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/64/75.1/1431 dated 07.11.2022.

15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.

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2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.

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- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/fl dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

16. As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17. As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18. Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is

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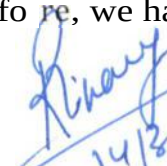
mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

- 19.**The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
- 20.**In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
- 21.**The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1189844 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2012 (Annexure-L), Voter List of the year 2013 (Annexure-M), Voter List of the year 2014 (Annexure-N), Voter List of the year 2015 (Annexure-O) and the Voter List of the year 2019 (Annexure-P).
- 22.**The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1189844 (Annexure-A), which has been issued on 24.12.2013, much prior to the cutoff date of 01.01.2015. It is pointed out that the name of the Appellant/Claimant appears at SI. No. 356 in the Voter List of the year 2012 (Annexure-L), at Si. No. 356 in the Voter List of the year 2013 (Annexure-M), at Si. No. 514 in the Voter List of the year 2014 (Annexure-N), at SI. No. 585 in the Voter List of the year 2015 (Annexure-O) and at SI. No. 786 in the Voter List of the year 2019 (Annexure-P). Therefore, we have no


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hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23.The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. D-101 regarding which he has claimed allotment from DDA. The Appellant/Claimant has tendered two joint Ration Cards (Annexure-J & Annexure-K). The old Ration Card (Annexure-J) has been issued in the name of his mother Bimla and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. The old Ration Card (Annexure-J) has been issued on 02.11.1998 in the name of his mother Bimla and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. The new Ration Card (Annexure-K) has been issued on 07.12.2014 in the name of his mother Bimla and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor of Jhuggi bearing No. D-101 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

24.The Appellant/ Claimant has also tendered the Voter ID Card bearing number ARE 1579597 (Annexure-E), Aadhar Card (Annexure-F) & Pan Card (Annexure-G) of his wife Sunita as well as the Electricity Bill (Annexure-H), his Pass Book of Andhra Bank (Annexure-I) and Application dated 24.11.2022 (Annexure-Q). The Voter ID Card bearing number 1579597 (Annexure-E), which has been issued on 09.12.2021, much after the cutoff date of 01.01.2015. The Electricity Bill (Annexure-F) shows that the electricity connection has been taken by his mother Bimla on 15.06.2008 on his ground floor Jhuggi No. D-101. He has made Application (Annexure-Q) for installation of electricity meter in his Jhuggi on 24.11.2022, much after the cutoff date of 01.01.2015. The Pass Book of Andhra Bank (Annexure-I) shows that the Appellant/Claimant has opened the account on 25.09.2014. It is pertinent to point out that the documents, Annexure-E to Annexure-I and Annexure-Q, are no help to the


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Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above he was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

25. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he has claimed allotment against the first floor. The documents, Annexure-A to Annexure-Q, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. D-101 regarding which he has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

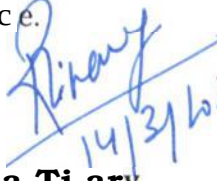
26. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/64/75.1/1431 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

27. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.


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Jt. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)
MEMBER


(Sati h Ahlawat)
CHAIRMAN

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(Raza Tiary)
EXPERT MEMBER

BET-ORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 184 of 2022

Date of Institution: 23.11.2022

Date of Order: 14.03.2023

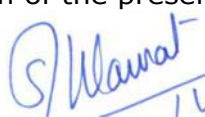
Present: Appellant/ Claimant Meena W/o Raj Kumar D/o Kannauji

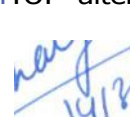
Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. B-523, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-523 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative


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allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/44/6.1/1070 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 184 of 2022 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 07.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing B-523 was found to exist on the upper floor but she had failed to submit required documents, i.e., a separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee (EDC) has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

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1. The Appellant/Claimant has stated that her parents, Kannauji & Prema, are having two sons, Raju & Jaipal and one daughter, Meena. Kannauji has expired about five years ago. All the children are married. Raju is married with Anita. Jaipal is married with Dev Lata and having three children, Avantika, Avinash & Natash. Meena (Appellant/Claimant) is married with Raj Kumar and having four children, Deepmala, Sumit, Ajit & Sujit. Meena along with her family is living with her parents in Bhoomiheen Camp.

8. The Appellant/Claimant has stated that her parents are having a double-storey Jhuggi bearing No. B-523. The Appellant/Claimant has stated that her parents, Kannauji (till his death) & Prema, along with the families of their sons, Raju & Jaipal, are living on the ground floor of Jhuggi no. B-523 and regarding that DDA has made allotment in favour of her Mother Prema. These facts are not disputed by DDA.

9. The Appellant/Claimant has further stated that she along with her husband Raj Kumar & four children, Deepmala, Sumit, Ajit & Sujit, is living on the first floor of the Jhuggi No. B-523. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi but her claim has been rejected by EDC and aggrieved by the same, she has filed the present Appeal no. 184 of 2022 before the Appellate Authority. The Appellant/Claimant has furnished documents, Annexure A to Annexure M, in support of her claim and prayed that DDA be directed to make allotment in her favour as per the policy guidelines issued by DDA.

10. DDA has furnished the survey record along with ten video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 07.03.2023 wherein she has stated that in seven video clip her mother Prema along with son Raju is seen in her Jhuggi on the ground floor and her room as well as kitchen are also seen. Further, in the remaining three video clips she (Meena-Appellant/Claimant) is seen standing in her Jhuggi on the first floor and further her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca double storey Jhuggi of the family of the Appellant/Claimant bearing Jhuggi No. B-523 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/ Claimant & her family used the first or of the said Jhuggi for residential purposes.

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11. Accordingly, we have no hesitation in holding that the Jhuggi No. B-523 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further the Appellant/ Claimant & her family have been using the first floor of the said Jhuggi No. B-523 for residential purposes.
12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
13. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-M, in support of her claim and prayed that DDA be directed to make allotment in her favour.
14. It is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of ii Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015 but having a joint Ration Card with her father, Kannauji. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/44/6.1/1070 dated 07.11.2022.
15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and 11 Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate Ji dwellers would be as under :-

1. The ii dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the 11 dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The 11 dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. 11 dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the II dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The .1.1 dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible 1.1 dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of Ji Basti.

As envisaged in para above, the JJ dwellers must p ossess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office w phot. :raph


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- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

16. As per Part—B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17. As already pointed out above, condition contained in Part—B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18. Thus Part—B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandate to ha ~~only one~~

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document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

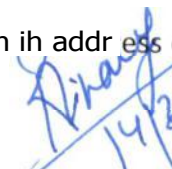
19. The bare perusal of the Policy shows that for claiming allotment for upper floor the II dwellers must be a citizen of India and not less than 18 years of age and further also that the name of II dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
20. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
21. The Appellant/Claimant has tendered her Voter ID Card bearing number ARE 1159169 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2014 (Annexure-K) and Voter List of the year 2019 (Annexure-L).
22. The Appellant/Claimant has tendered her Voter ID Card bearing number ARE 1159169 (Annexure-A), which has been issued on 27.10.2008, much prior to the cutoff date of 01.01.2015. The name of the present Appellant/Claimant appears at SI. No. 754 in the Voter List of the year 2014 (Annexure-K) and at SI. No. 807 in the Voter List of the year 2019 (Annexure-L). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 20 (prior 01-01-2015) & also in the year of survey.

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23. The Appellant/Claimant has admitted that she is not having a separate Ration Card on the address of first floor of the Jhuggi No. B-523 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-J) issued in the name of her father Kannauji on 27.08.1996 and in that the names of the family members, including that of the present Appellant/Claimant, have been recorded. But the fact remains that the Appellant/Claimant is not having a separate Ration Card on the address of first floor of the Jhuggi No. B-523 regarding which she is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.
24. The Appellant/Claimant has tendered her e-Shram Card (Annexure-D) as well as the Voter ID Card bearing number ARE 1159144 (Annexure-E), Aadhar Card (Annexure-F) & Pan Card (Annexure-G) of her husband Raj Kumar and her Pass Book of PNB (Annexure-H), Electricity Bill (Annexure-I) and Caste Certificate (Annexure-M). The Voter ID Card bearing number ARE 1159144 (Annexure-E) has been issued on 27.10.2008. The Pass Book of PNB (Annexure-H) shows that the account was opened on 17.09.2014. The Electricity Bill (Annexure-I) shows that the electricity connection has been taken by the Appellant/Claimant on 18.07.2022, much after the cutoff date of 01.01.2015. The documents, Annexure-D to Annexure-I & Annexure-M, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above she was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she is claiming allotment against the upper floor.
25. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she is claiming allotment against upper floor. The documents, Annexure-A to Annexure-M, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on ih address of first


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floor of Jhuggi No. A-523 regarding which she has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

26. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/44/6.1/1070 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.
27. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.



(Ran r Singh) ,

Jt. Secretary (Retd.) GOI

MEMBER

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(Satish Ahlawat)

Addl. District & Sessions Judge (Retd.)

CHAIRMAN




(Rachna Tiwary)

EXPERT MEMBER

ELFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 298 of 2023

Date of Institution: 25.11.2022

Date of Order: 14.03.2023

Present: Appellant/ Claimant Ajay Kumar S/o Murari Lal

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-351, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-351 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the nodal Officer,

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Bhoomiheen Camp, duly communicated its order bearing No. 385/68/6.1/1549 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 298 of 2023 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 07.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-O, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-351 was found to exist on the upper floor but he had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee (EDC) has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.


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7. The statement of the Appellant/ Claimant, Ajay Kumar, has been recorded before us on 07.03.2023, wherein he has stated that his parents, Murari Lal & Kamla, are having two sons, namely, Vijay & Ajay (Appellant/ Claimant) and three daughters, namely, Geeta , Neetu & Neha. Kamla had died in the year 2016. All the children are married. All the three daughters are living in their respective matrimonial homes in Govind Puri Delhi. Vijay is married with Mamta and having two children Shaurya & Prateek. Whereas Ajay (Appellant/ Claimant) is married with Baby Bharti and having two sons, Sumeet & Hans.
8. The Appellant/ Claimant has stated that his family is having a triple storey Jhuggi No. C-351. His father Murali Lal, along with the family of his son Vijay, is living on the ground & third floors of the said Jhuggi No. C-351 and regarding that DDA has made allotment in favour of Murari. These facts are not disputed by DDA.
9. The Appellant/ Claimant has further stated that he along with his wife Baby Bharti & both the children, Sumeet & Hans is living on the first floor of the said Jhuggi No. C-351. The Appellant/ Claimant has sought allotment from DDA. But his claim has been rejected by DDA and aggrieved by the same he has filed Appeal No. 298 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-O, and prayed that DDA be directed to make allotment in his favour.
10. DDA has furnished the survey records along with two video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 07.03.2023 wherein he has stated that in the first video clip his father Murari Lal, is seen in his Jhuggi on the ground floor and his room & kitchen are also seen and in the second video an iron ladder is seen going to the upper floor and further he (Ajay-Appellant/Claimant) is seen on the first floor and his room & kitchen are also. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. C-351 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.


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11. Accordingly, we have no hesitation in holding that the Jhuggi No. A-137 in Bhoomiheen Camp is a pucca triple storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.
12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
13. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-O, in support of his claim and prayed that DDA be directed to make allotment in his favour.
14. It is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card but having a joint Ration Card issued in the name of his mother, Kamla. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/68/6.1/1549 dated 07.11.2022.
15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:


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"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the ii cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU local Bodies.
- ✓ Passbook issued by public sector Bank/Post Office with photograph.

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- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/Ji dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

16. As per Part—B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17. As already pointed out above, condition contained in Part—B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18. Thus Part—B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But he dweller claiming allotment against upper floor not having any of

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such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

19. The bare perusal of the Policy shows that for claiming allotment for upper floor the .1i dwellers must be a citizen of India and not less than 18 years of age and further also that the name of ii dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

20.1n the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

21. The Appellant/Claimant has tendered her Voter ID Card bearing number ARE 1183987 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2015 (Annexure-N) and Voter List of the year 2019 (Annexure-O).

22. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1183987 (Annexure-A), which has been issued on 27.10.2008, much prior to the cutoff date of 01.01.2015. The name of the Appellant/Claimant appears at SI. No. 367 in the Voter List of the year 2015 (Annexure-N) and at SI. No. 366 in the Voter List of the year 2019 (Annexure-0). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also ears i t lea t on



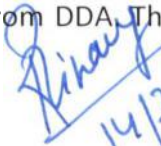
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the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23. The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. C-351 regarding which he has claimed allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-I) issued in the name of his mother Kamla on 12.12.2014 and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor bearing No. C-351 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.
24. The Appellant/ Claimant has also tendered his Driving License (Annexure-D) issued on 18.10.2011, Passport (Annexure-E) issued on 03.05.2012 as well as the Voter ID Card No. ARE 1774750 (Annexure-F) issued on 17.03.2012, Aadhar Card (Annexure-G) & Pan Card (Annexure-H) of his wife Baby Bharti, the Electricity Bill (Annexure-I) showing that the electricity connection has been taken by the Appellant/ Claimant on 07.12.2021 and Caste Certificate (Annexure-K) dated 29.12.2011. The documents, Annexure-D to Annexure-H and Annexure-K, are of no help to the Appellant/ Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above he was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.
25. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against upper floor. The documents, Annexure-A to Annexure-O, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. C-351 regarding which he has claimed allotment from DDA. Therefore,


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Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

26. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/68/6.1/1549 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.
27. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ran ti`Singh)¹⁹

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(Satish Ahlawat)

Rachna
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(Rachna Tiwary)

Jt. Secretary (Retd.) GO! Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 449 of 2023

Date of Institution: 29.11.2022

Date of Order: 14.03.2023

Present: Appellant/ Claimant Rakesh Mandal S/o Narayan Mandal

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-25, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-25 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen

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Camp, duly communicated its order bearing No. 385/59/36.1/1175 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No.449 of 2023 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 24.01.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-G, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-25 was found to exist on the upper floor but he had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/ Claimant, Rakesh Mandal, has been recorded before us on 24.01.2023, wherein he has stated that his parents, Narain & Sandhya, are having one son, namely, Rakesh Mandal (Appellant/ Claimant) and one daughter, namely, Rikta. Narain has expired in 2021. Rakesh Mandal is unmarried. Whereas Rikta is married with Ravi and having two sons, namely, Vansh & Piyush.
8. The Appellant/ Claimant has stated that his family is having a double storey Jhuggi No. A-137 and it comprised of one room on each floor. His mother Sandhya is living on the ground floor of the said Jhuggi No. A-137 and regarding that DDA has made allotment in favour of Sandhya. These facts are not disputed by DDA.
9. The Appellant/ Claimant has also stated that he along with the family of his sister, Rikta, is living on the first floor of the said Jhuggi No. A-137. The Appellant/ Claimant has sought allotment from DDA. But his claim has been rejected by DDA and aggrieved by the same he has filed Appeal No. 449 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-G, and prayed that DDA be directed to make allotment in his favour.
10. DDA has furnished the survey records along with two video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 24.01.2023 wherein he has stated that in the first video clip his mother, Sandhya, is seen in her Jhuggi on the ground floor and in the second video clip he (Rakesh Mandal-Appellant/Claimant) is seen on the first floor. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey pucca Jhuggi No. A-137 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.
11. Accordingly, we have no hesitation in holding that the Jhuggi No. A-137 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.





12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
13. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-G, in support of his claim and prayed that DDA be directed to make allotment in his favour.
14. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card but having a joint Ration Card issued in the name of his mother, Sandhya. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/59/36.1/1175 dated 07.11.2022.
15. **First** of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

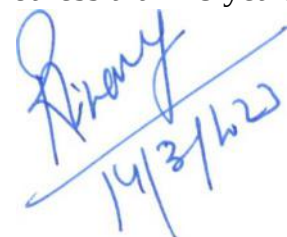
The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.

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2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Author with photograph.

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- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/Ji dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PERDDA POLICY

16.As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17.As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18.Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it **and at ry to ve**

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only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

19.The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

20. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

21.The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1772911 (Annexure-A), Aadhar Card (Annexure-I3), Pan Card (Annexure-C) and the Voter List of the year 2019 (Annexure-G).

22.The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1772911 (Annexure-A), which has been issued on 26.08.2013, much prior to the cutoff date of 01.01.2015. It is pointed out that the name of the Appellant/Claimant appears at SI. No. 563 in the Voter List of the year 2019 (Annexure-F). However, the Appellant/Claimant has not tendered the Voter Lists of the earlier years to show that he had casted his vote in the year's 2013, 2014 and 2015 (prior to 01-01-2015) by using his Voter ID Card bearing number ARE 1772911 (Annexure-A). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card **CQ** the c t off da of

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01.01.2015 and his name also appears in the Voter List of the year 2019 (Annexure-F) but there is no material on file to show that his name also appears in at least on the voter list of the year's 2013, 2014 and 2015 (prior to 01-01-2015).

23 The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. C-25 regarding which he has claimed allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-G) issued in the name of his mother Sandhya and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. However the date of issuance is not mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor of Jhuggi bearing No. C-25 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

24. The Appellant/ Claimant has also tendered his Pass Book of Allahabad Bank (Annexure-D) but the date of opening of the account is not mentioned. He has also tendered the Electricity Bill (Annexure-E) showing that the electricity connection has been taken by his father Narayan on 06.06.2008 on his ground floor Jhuggi No. C-25 thereby, showing that the Appellant/Claimant was not having electricity connection on the address of first floor of the Jhuggi No. C-25 regarding which he is claiming allotment from DDA. The documents, Annexure-D & Annexure-E, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above he was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

25. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he has claimed allotment against the first floor. The documents, Annexure-A to Annexure-G, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not fulfilling the requisite


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mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. C-25 regarding which he has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

26. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/59/36.1/1175 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

27. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

(Ranh' ingh) ¹

(Satis Ahlawat)

(Rachna Tiwary)

Jt. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 87 of 2022

Date of Institution: 21.11.2022

Date of Order: 15.03.2023

Present: Appellant/ Claimant Jay Prakash Sh o Ram Dev

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-152, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-152 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/67/067.1.1/1529 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 87 of 2022 has been filed by the present Appellant/ Clai ant.

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3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 18.01.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-152 was found to exist on the upper floor but he had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/ Claimant, Jay Prakash, has been recorded before us on 18.01.2023, wherein he has stated that his parents, Ram Dev & Shanti, are having two sons, namely, Om Prakash & Jay Prakash (Appellant/Claimant) and one daughter, namely, Krishna. Both Ram Dev and his daughter Krishna had died i t e year 2007.


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Om Prakash is married with Urmila and having three children, Depak, Jyoti & Ankita. Whereas Jay Prakash (Appellant/Claimant) is married with Mamta and having three children, namely, Nikhil, Akhil & Nitish.

8. The Appellant/ Claimant has stated that his family is having a double storey Jhuggi No. A-152. His mother, Shanti, is living on the ground floor of the said Jhuggi No. A-152 and regarding that DDA has made allotment in favour of his mother Shanti. These facts are not disputed by DDA.
9. The Appellant/ Claimant has also stated that he along with his wife, Mamta & three children, namely, Nikhil, Akhil & Nitish, along with the family of his brother Om Prakash, is living on the first floor of the said Jhuggi No. A-152. The Appellant/ Claimant has sought allotment from DDA. But his claim has been rejected by DDA and aggrieved by the same he has filed the present Appeal No. 87 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-M, and prayed that DDA be directed to make allotment in his favour.
10. DDA has furnished the survey records along with 5 video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 18.01.2023 wherein he has stated that in 3 video clips the double storey Jhuggi is seen and a pucca staircase going to the first floor is seen and further the Jhuggi on the ground floor of her mother Shanti is seen but in her place the survey was conducted by Om Prakash as at the time of survey Shanti had gone to her native village. In the next 2 videos he (Jay Prakash-Appellant/Claimant) is seen on the first floor of the said Jhuggi. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey pucca Jhuggi No. A-152 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.
11. Accordingly, we have no hesitation in holding that the Jhuggi No. A-152 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant & his family has been using the first floor of the said Jhuggi for residential purposes.

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12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
13. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-M, in support of his claim and prayed that DDA be directed to make allotment in his favour.
14. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card but having a joint Ration Card issued in the name of his mother, Shanti. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/67/067.1.1/1529 dated 07.11.2022.
15. **First** of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.


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2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the followin_g documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authorit with photograph.


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- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/Ji dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

16. As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17. As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18. Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This makes it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is



mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

19.The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

20.In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

21.The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1136167 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2019 (Annexure-F).

22.The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1136167 (Annexure-A), which has been issued on 27.10.2008, much prior to the cutoff date of 01.01.2015. It is pointed out that the name of the Appellant/Claimant appears at SI. No. 127 in the Voter List of the year 2019 (Annexure-F). However the Appellant/Claimant has not placed on file the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) to show that he had casted his vote by using his Voter ID Card bearing number ARE 1136167 (Annexure-A) in these years. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in the voter list of the ye 2019 (Annexure-


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F) but there is nothing on file to show that his name also appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015).

23.The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. A-152 regarding which he has claimed allotment from DDA. The Appellant/Claimant has tendered two joint Ration Cards (Annexure-I & Annexure-J). The old Ration Card (Annexure-1) has been issued on 22.06.2002 in the name of his father Ram Dev and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. The new Ration Card (Annexure-J) has been issued in the name of his mother Shanti and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned but the date of issuance is not mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor of Jhuggi bearing No. A-152 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

24.The Appellant/ Claimant has also tendered the Voter ID Card bearing number ARE 1136175 (Annexure-D) & Aadhar Card (Annexure-E) of his wife Mamta as well as the Pass Book of Indian Bank (Annexure-G), Electricity Bill (Annexure-H) and Aadhar Cards (Annexure- K to Annexure-M) of his children, Nikhil, Akhil & Nitish respectively. The Voter ID Card bearing number ARE 1136175 (Annexure-D) has been issued on 27.10.2008, much prior to the cutoff date of 01.01.2015. The Pass Book of Indian Bank (Annexure-G) shows that the Appellant/ Claimant had opened the account on 17.06.2005. The Electricity Bill (Annexure-H) shows that the electricity connection has been taken by his mother Shanti on 14.06.2008 on his ground floor Jhuggi No. A-152. It is pertinent to point out that the documents, Annexure- D, Annexure-E, Annexure-G, Annexure-H and Annexure-K to Annexure-m and Annexure-Q, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above he was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.



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25. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he has claimed allotment against the first floor. The documents, Annexure-A to Annexure-M, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. A-152 regarding which he has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

26. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/67/067.1.1/1529 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

27. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.



Mr. Sing)



(Satish Ahlawat)



(Rachna Tiary)

It. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI

Appeal No: 192 of 2022

Date of Institution: 23.11.2022

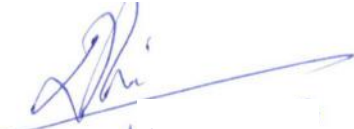
Date of Order: 10.03.2023

Present: Appellant/ Claimant Urmila W/o Dhram Das D/o Harishankar

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. A-306, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-306 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/60/6.11.F/1242 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved


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by the same, the present Appeal No. 192 of 2022 has been filed by the present Appellant/Claimant.

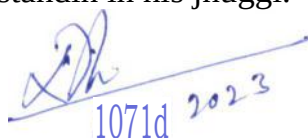
3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 17.01.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing A-306 was found to exist on the upper floor but she had failed to submit required documents, i.e., a separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be "**No Separate Ration Card for Upper Floor Jhuggi**" and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

7. The Appellant/Claimant has stated that her in laws, Hanu mat & Kashi Bai, are having two sons, Rakesh & Dharam Das and one daughter, Lalita. All the children are married. Rakesh is married with Lila and having two children, Chandan & Dhruva. Dharam Das

is married with Urmila and having two children, Krishna & Harshita. Lalita is married with Babu Sahu and she is living in her matrimonial home in Madhya Pradesh.

8. The Appellant/Claimant has stated that her family is having a double-storey Jhuggi bearing No. A-306 and it comprised of one room on the ground floor and two rooms on the first floor and further one pucca staircase from gali was used for going to the upper floors. The Appellant/Claimant has stated that her in-laws, Hanumat & Kashi Bai are living on the ground floor of jhuggi no. A-306 and regarding that DDA has made allotment in favour of her Mother-in-law Kashi Bai. These facts are not disputed by DDA.
9. The Appellant/Claimant has also stated that Rakesh along with his family is living in the first room on the first floor of the said Jhuggi No. A-306. Rakesh has sought allotment from DDA but his claim has been rejected by EDC and aggrieved by the same, he has filed appeal before the Appellate Authority. It is pointed out that the appeal filed by Rakesh shall be decided separately on its individual merit.
10. The Appellant/Claimant has further stated that she along with her husband Dharam Das & children Krishna & Harshita, is living in the second room on the first floor of the Jhuggi No. A-306. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi but her claim has been rejected by EDC and aggrieved by the same, she has filed the present Appeal no. 192 of 2022 before the Appellate Authority. The Appellant/Claimant has furnished documents, Annexure A to Annexure K, in support of her claim and prayed that DDA be directed to make allotment in her favour as per the policy guidelines issued by DDA.
11. DDA has furnished the survey record along with four video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 17.01.2023 wherein she has stated that in the first video clip her in-laws, Hanumat & Kashi Bai are seen in their jhuggi on the ground floor and her room as well as kitchen are also seen. Further, in the remaining two video clips, the pucca staircase going to the first floor is seen and the Appellant/Claimant is also seen standing in her jhuggi on the first floor and further her room & kitchen are also seen. In fourth video, Rakesh is also seen standing in his jhuggi.


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12. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca double storey Jhuggi of the family of the Appellant/Claimant bearing Jhuggi No. A-306 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/ Claimant & her family used the first floor of the said Jhuggi for residential purposes.
13. Accordingly, we have no hesitation in holding that the Jhuggi No. A-306 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further the Appellant/ Claimant & her family have been using the first floor of the said Jhuggi No. A-306 for residential purposes.
14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.
15. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make allotment in her favour.
16. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015 but having a joint Ration Card with her mother-in-law, Kashi Bai. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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Accordingly, there is no illegality in the impugned rejection order bearing No. 385/60/6.11.F/1242 dated 07.11.2022.

17. **First** of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate 1J dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/Ji dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18.As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGG1 AS PER DDA POLICY

19.As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

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"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

20. Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

23. The Appellant/Claimant has tendered her Voter ID Card bearing number ARE 1130376 (Annexure-A), Aadhar Card (Annexure-B) and Pan Card (Annexure-C).


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24. The Appellant/Claimant has tendered her Voter ID Card bearing number ARE 1130376 (Annexure-A), which has been issued on 27.10.2008, much prior to the cutoff date of 01.01.2015. But it is pertinent to point out that the Appellant/Claimant has not tendered the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also of the year of survey, to show that she had casted her vote by using Voter ID Card bearing number 1130376 (Annexure-A). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 but there is no material to show that her name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.
25. The Appellant/Claimant has admitted that she is not having a separate Ration Card on the address of first floor of the Jhuggi No. A-306 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-K) issued in the name of her mother-in-law, Kashi Bai and in that the names of the family members, including that of the present Appellant/Claimant, have been recorded. However, the date of issuance is not mentioned. But the fact remains that the Appellant/Claimant is not having a separate Ration Card on the address of first floor of the Jhuggi No. A-306 regarding which she is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.
26. The Appellant/Claimant has tendered the Voter ID Card bearing number ARE 1139716 (Annexure-D), Aadhar Card (Annexure-E), Pan Card (Annexure-F), Driving License (Annexure-G) & OBC Certificate (Annexure-I-!) of her husband Deepak as well as the Gas Bill (Annexure-I) and Electricity Bill (Annexure-J). The Voter ID Card bearing number ARE 1139716 (Annexure-D) has been issued on 27.10.2008. The Gas Bill (Annexure-I) shows that the connection has been taken by the husband of the Appellant/Claimant on 15.10.2011 and the Electricity Bill (Annexure-J) shows that the electricity connection has been taken by on 31.05.2008 in the name of her father-in-law Hanumat, thereby, showing that the Appellant/Claimant was not having electricity connection on the address of first floor of the Jhuggi No. A-306 regarding which she is


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claiming allotment from DDA. The documents, Annexure-D to Annexure-j, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above she was not having a separate Ration Card on the cut off date of 01.01.2015 and her name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

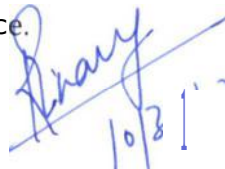
27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and her name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey. The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 her name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.
28. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/60/6.11.F/1242 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.
29. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.


(Ranbir Singh⁴)

Jt. Secretary (Retd.) GOI
MEMBER


(Satish Ahlawat)

Addl. District & Sessions Judge (Retd.)
CHAIRMAN


(Rachna Tiwari)

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 81 of 2022

Date of Institution: 21.11.2022

Date of Order: 13.03.2023

Present: Appellant/ Claimant Sanju W/o Raj Kumar D/o Sankar Shah

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. A-142A, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-142A was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/66/42.1.1/1481 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved


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by the same, the present Appeal No. 81 of 2022 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 10.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-142A was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The Appellant/Claimant has stated that her in-laws, Vinod & Manju, are having two sons, namely, Raj Kuamr & Kapil and two daughters, namely, dia & Madhu. All the


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children are married. Both the sisters Gudia & Madhu are living in their respective matrimonial homes in Bihar and Punjab. Kapil is married with Kavita and having one daughter, Krishti. Raj Kumar is married with Sanju (Appellant/Claimant) and having two children, Shrishti & Diyanish.

8. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. A-142A and it comprised of one room on each floor. Her in-laws, Vinod & Manju, along with the family of their son Kapil, are living on the ground floor of the said Jhuggi No. A-142A and DDA has made allotment in favour of her mother-in-law, Manju. These facts are not disputed by DDA.
9. The Appellant/Claimant has also stated that she along with her husband Raj Kumar & both the children, Shrishti & Diyanish, is living on the first floor of the said Jhuggi bearing Jhuggi No. A-142A. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-142A but her claim has been wrongly rejected by DDA and aggrieved by the same she has filed the present Appeal for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-J, in support of her claim and prayed that DDA be directed to make alternative allotment in her favour as per the policy guidelines issued by DDA.
10. DDA has furnished the survey records along with six video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 10.03.2023 wherein she has stated that in three video clips her mother-in-law, Manju, is seen in her Jhuggi on the ground floor and further her room & kitchen are also seen. Whereas in the remaining three video clips she (Sanju- Appellant/Claimant) is seen in her Jhuggi on the first floor of Jhuggi No. A-142A and further a room and a kitchen on the first floor are also seen in those video clips. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca double storey Jhuggi of the family of the Appellant/Claimant bearing Jhuggi No. A-142A was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/ Claimant & her family used the first floor of the said Jhuggi for residential purposes.

Sanju
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Manju
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11. Accordingly, we have no hesitation in holding that the Jhuggi No. A-142A in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further the Appellant/ Claimant & her family have been using the first floor of the said Jhuggi No. A-12 for residential purposes.
12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
13. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-L, in support of her claim and prayed that DDA be directed to make allotment in her favour.
14. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-12 regarding which she is claiming allotment from DDA. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/66/42.1.1/1481 dated 07.11.2022.
15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:



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"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate 11 dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the Jj dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.


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- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/Ji dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

16.As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17.As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18.Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment

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against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

19. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
20. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
21. The Appellant/Claimant has tendered her Voter ID Card (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2012 (Annexure-I), Voter List of the year 2013 (Annexure-J), Voter List of the year 2014 (Annexure-K) and Voter List of the year 2019 (Annexure-L).
22. The Appellant/Claimant has tendered the Voter ID Card bearing number ARE 1129238 (Annexure-A), which has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at S. No. 591 in the Voter list of the year 2012 (Annexure-I), at SI. No. 591 in the Voter List of the year 13


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(Annexure-J), at SI. No. 623 in the Voter list of the year 2014 (Annexure-K) and at SI. No. 782 in the Voter list of the year 2019 (Annexure-L). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23.The Appellant/ Claimant has admitted that she is not having a separate Ration card on the address of the first floor of the said Jhuggi No. A-142A regarding which she is claiming allotment from DDA. The admission of the Appellant/ Claimant is a clincher piece of evidence to show that she is not having a separate Ration card despite of the fact that she is claiming allotment against the upper floor. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

24.The Appellant/Claimant has tendered the Voter ID Card No. ARE 1129220 (Annexure-D), Aadhar Card, (Annexure-E), Pan Card (Annexure-F) of her husband Raj Kumar as well as the Electricity Bill (Annexure-G) and her Pass Book of 1013 (Annexure-H).

25.It is pointed out that the Voter ID Card bearing number ARE 1129220 (Annexure-D) been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The Electricity Bill (Annexure-G) shows that the connection has been taken by her father-in-law, Vinod on 18.06.2008 and the Appellant/ Claimant was not having any connection on the first floor of the Jhuggi No. A-142A regarding which she is claiming allotment from DDA. The Pass Book of 10B (Annexure-H) shows that the account was opened by the Appellant/ Claimant on 12.09.2014. But it is pertinent to point out that the documents, Annexure-D to Annexure-H, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA DDA because as per our discussion above she was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she is claiming allotment against the upper floor.

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12/3/22

26. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015. The documents, Annexure-A to Annexure-L, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. A-142A regarding which she has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

27. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/66/42.1.1/1481 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

28. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.



(Ranbi Ingh)

Jt. Secretary (Retd.) GOI

MEMBER



(Satis Ahlawat)

Addl. District & Sessions Judge (Retd.)

CHAIRMAN



(Rachna Tiwary)

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 132 of 2022

Date of Institution: 22.11.2022

Date of Order: 13.03.2023

Present: Appellant/ Claimant Lila Devi W/o Durga Nath Pathak D/o Rajni Kant Jha

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. A-12, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-12 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/66/24.1.1/1466 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 132 of 2022 has been filed by the present Ap lant/C1 imant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 10.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-12 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The Appellant/Claimant has stated that her parents, Raj Kant Jha & Sonu, are having one son, namely, Shiv Kumar and two daughters, namely Triveni & Lila Devi (Appellant/Claimant). Raj Kant Jha has expired about 20 years ago. Her mother Sonu is living in Bihar. All the children are married. Shiv Kumar had entered into first marriage with Pushpa and two children, Chandan & Anshu were born of the wedlock. After

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the death of Pushpa, Shiva Kumar has entered into second marriage with Mannu and one son, Vansh, was borne out of the wedlock. Both the sisters Triveni and Lila were married with real brothers, namely Raj Narain Pathak and Durga Nath Pathak. Triveni and Raj Narain Pathak are having one son, Laxman. Raj Narain Pathak had expired long ago and Triveni had also died on 06.12.2022. Lila Devi and Durga Nath Pathak are having five children.

8. The Appellant/Claimant has stated that his brother Shiv Kumar is having a double storey Jhuggi No. C-105 and DDA has made allotment in favour of Mannu W/o Shiv Kumar against the ground floor of Jhuggi No. C-105. But the claim of Chandan S/o Shiv Kumar against the first floor of the said Jhuggi No. C-105 was rejected by EDC and aggrieved by the same Chandan had filed Appeal No. 05 of 2022 but the said Appeal has also been dismissed by the Appellate Authority on 24.02.2023. These facts are not disputed by DDA.
9. The Appellant/Claimant has stated that Jhuggi No. A-12 is a double storey structure and her real sister Triveni widow of Raj Narain Pathak along with her son Laxman was living on the ground floor of the said Jhuggi No. A-12 and DDA has made allotment in favour of Lila widow of Raj Narain Pathak against the ground floor of Jhuggi No. A-12. Triveni had also died on 06.12.2022 and consequent upon her death the mutation case of Laxman is pending with DDA authority. These facts are not disputed by DDA.
10. The Appellant/Claimant has also stated that she along with her husband Durga Nath Pathak & five children, is living on the first floor of the said Jhuggi bearing Jhuggi No. A-12. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-12 but her claim has been wrongly rejected by DDA and aggrieved by the same she has filed the present Appeal for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-J, in support of her claim and prayed that DDA be directed to make alternative allotment in her favour as per the policy guidelines issued by DDA.
11. DDA has furnished the survey records along with one video clip. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 10.03.2023 wherein she has stated that in the video clip she (Lila Devi-


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Appellant/Claimant) is seen in her Jhuggi on the first floor of Jhuggi No. A-12 and further a room and a kitchen on the first floor are also seen in that video clip. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca double storey Jhuggi of the family of the Appellant/Claimant bearing Jhuggi No. A-12 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/ Claimant & her family used the first floor of the said Jhuggi for residential purposes.

12. Accordingly, we have no hesitation in holding that the Jhuggi No. A-12 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further the Appellant/ Claimant & her family have been using the first floor of the said Jhuggi No. A-12 for residential purposes.

13. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

14. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-J, in support of her claim and prayed that DDA be directed to make allotment in her favour.

15. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-12 **regarding which she is**

claiming allotment from DDA. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/66/24.1.1/1466 dated 07.11.2022.

16. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
- 10 If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.


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11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

17.As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18.As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

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"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

19. Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

20. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

21. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.


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22. The Appellant/Claimant has tendered her Voter ID Card (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of 2013 (Annexure-I) and Voter List of 2019 (Annexure-J).
23. The Appellant/Claimant has tendered the Voter ID Card bearing number ARE 1131655 (Annexure-A), which has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The Appellant/Claimant has also tendered the Voter list of the year 2013 (Annexure-I) in which her name appears at SI. No. 130 and the Voter list of the year 2019 (Annexure-J) in which her name appears at SI. No. 244. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
24. The Appellant/ Claimant has admitted that she is not having a separate Ration card on the address of the first floor of the said Jhuggi No. A-12 regarding which she is claiming allotment from DDA. The admission of the Appellant/ Claimant is a clincher piece of evidence to show that she is not having a separate Ration card despite of the fact that she is claiming allotment against the upper floor. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.
25. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1131663 (Annexure-D), Aadhar Card, (Annexure-E) & Pan Card (Annexure-F) of her husband Durga Nath Pathak as well as her Pass Book of PNB (Annexure-G) and the Electricity Bill (Annexure-H).
26. It is pointed out that the Voter ID Card bearing number ARE 1131663 (Annexure-I) been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The Pass Book of PNB (Annexure-G) shows that the account was opened by the Appellant/ Claimant on 14.13.2012. The Electricity Bill (Annexure-H) shows that the connection has been taken by her sister Triveni on 04.07.2008 and the Appellant/ Claimant was not having any connection on the first floor of the Jhuggi No. A-21 regarding which she is claiming allotment from DDA. But it is pertinent to point out that the documents, Annexure-D to

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Annexure-H, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above she was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she is claiming allotment against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. A-12 regarding which she has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

28. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/66/24.1.1/1466 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

29. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Raribir Singh)

(Satis Ahlawat)

(Rachna Tiwary)

t. Secretary (Retd.) GOI

Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

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BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF LI DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 154 of 2022

Date of Institution: 23.11.2022

Date of Order: 13.03.2023

Present: Appellant/ Claimant Deepali Pramanik W/o Dinesh D/o Vijay Munia

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

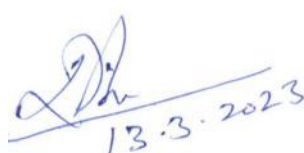
1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. B-677, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of II Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to II Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-677 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/10/14.G/683 dated 07.11.2022 to the present Appellant/ C,l,ajmant. Aggrieved by

the same, the present Appeal No. 154 of 2022 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 07.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-677 was found to exist on the upper floor but she had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

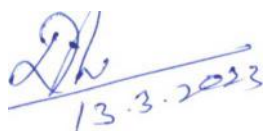
Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/ Claimant, Deepali Pramanik, has been recorded before us on 07.03.2023, wherein she has stated that her in-laws, Basude Pramanik & Parul, are

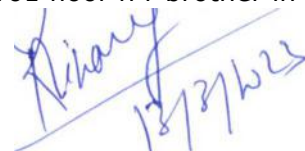
  

having five sons, namely, Deepankar, Deepak, Dinesh, Dilip & Diwkar. Basudev had expired about 20 years ago and Parul had expired about 6-7 years ago. All the children are married. Diwakar had married with Shefali but he had expired about 4-5 years ago and after his death Shefali is living in West Bengal. Dilip was married with Radha but his whereabouts are not known for the last over 18 years and now Radha is also living in West Bengal. Deepak was married with Disha and having one son Arindam. Deepankar was married with Pallavi. Dinesh was married with Deepali (Appellant/ Claimant) and having two daughters Rekha and Rakhi. Dinesh had expired about 15 years ago.

8. The Appellant/ Claimant has stated that her family is having a triple storey Jhuggi No. B-677. Her brother-in-law Deepak along with his family is living on the ground floor of the said Jhuggi No. B-677 and regarding that DDA has made allotment in favour of Deepak. These facts are not disputed by DDA.
9. The Appellant/ Claimant has also stated that Deepankar along with his wife Pallavi is living on the second floor of the said Jhuggi No. B-677 and he has sought allotment from DDA against the second floor. But his claim has been rejected by DDA and aggrieved by the same he has filed Appeal No. 353 of 2023 before the Appellate Authority for redressal.
10. The Appellant/ Claimant has also stated that she along with her two daughters is living on the first floor of the said Jhuggi No. B-677. The Appellant/ Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. B-677. But her claim has been rejected by DDA and aggrieved by the same she has filed Appeal No. 154 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-I, and prayed that DDA be directed to make allotment in her favour.
11. It is pointed out that both the Appeal No. 154 of 2022 and the Appeal No. 353 of 2023 shall be decided separately on the respective merits.
12. DDA has furnished the survey records along with 18 video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 07.03.2023 wherein she has stated that in the six video clips of ground floor her brother in-


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law, Deepak, is seen in his Jhuggi on the ground floor and his room & kitchen are also seen. In the next 6 video clips of first floor a pucca staircase going to the upper floor is also seen and she (Deepali- Appellant/Claimant) is seen on the first floor and her room & kitchen are also seen. Further in the remaining six video clips Deepankar is seen in his Jhuggi on the second floor and a room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. B-677 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.

13. Accordingly, we have no hesitation in holding that the Jhuggi No. B-677 in Bhoomiheen Camp is a pucca triple storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.
14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
15. It is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of 1.1 Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card but having a joint Ration Card issued in the name of her mother-in-law Parul. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by

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DDA because she was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/10/14.G/683 dated 07.11.2022.

16. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The .1.1 dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the 11 cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

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As envisaged in para above, the 1.1 dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

17. As per Part—B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18. As already pointed out above, condition contained in Part—B Para 10 of DDA policy runs as under:

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10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

19. Thus Part—B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

20. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

21. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1163385 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2014 (Annexure-H) & Voter List of the year 2019 (Annexure-I).

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23. It is pointed out that the Voter ID Card bearing No. ARE 1163385 (Annexure-A) has been issued on 27.10.2008, much prior to the cutoff date of 01.01.2015. Further the name of the Appellant/Claimant appears at SI. No. 1186 in the Voter List of the year 2014 (Annexure-H) and at SI. No. 1216 in the Voter List of the year 2019 (Annexure-I). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
24. The Appellant/Claimant has admitted that she is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. B-677 regarding which she has claimed allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-F) issued in her name on 22.08.1996. It is pointed out that the Appellant/Claimant has placed the Photostat copy of the Ration Card but has failed to show the original document. The Appellant/Claimant has specifically stated that this Ration Card is not a genuine document and she has never drawn any ration by using the Ration Card Annexure-F. This shows that the Appellant/Claimant has tried to seek allotment from DDA by using a forged document.
25. The Appellant/Claimant has tendered the new Ration Card (Annexure-G) issued on 04.12.2014 in the name of her mother-in-law, Parul, and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor bearing No. B-677 regarding which she is claiming allotment from DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.
26. The Appellant/Claimant has tendered her Pass Book of PNB (Annexure-D) and Electricity Bill (Annexure-E). The Pass Book of PNB (Annexure-D) shows that the Appellant/Claimant has opened the account on 26.07.2003. The Electricity Bill (Annexure-E) shows that the connection was issued on 22.04.2019 much after the cutoff date of 01.01.2015. The abovementioned documents, Annexure-D & Annexure-E, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in

her favour to claim allotment from DDA because as per our discussion above she was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she is claiming allotment against the upper floor.

27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she has claimed allotment against the first floor. The documents, Annexure-A to Annexure-I, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. B-677 regarding which she has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

28. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/10/14.G/683 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

29. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Rachna Tiwary)

it. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 186 of 2022

Date of Institution: 23.11.2022

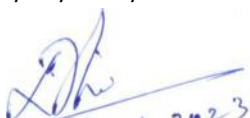
Date of Order: 13.03.2023

Present: Appellant/ Claimant Preeti Burman W/o Rahul Burman

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. B-541, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-541 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/44/67.1/1093 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by


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the same, the present Appeal No. 186 of 2022 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 10.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-541 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The Appellant/Claimant has stated that her in-laws, Vijay Burman & Pushpa, are having one son, namely, Rahul and four daughters, namely Laxmi, Kiran, Bhawani & Durga. Vijay Burman, h expired on 28.02.2022. All the children are married. All e three daughters,

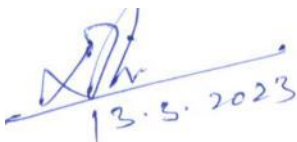
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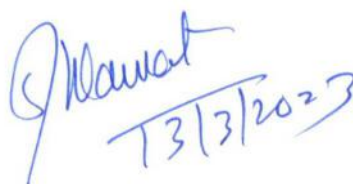
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namely Laxmi, Kiran & Bhawani are living in their respective matrimonial homes whereas Durga is living with her parents in Bhoomiheen Camp. Rahul is married with Preeti (Appellant/Claimant) and having two children, Rishab & Priyanshu.

8. The Appellant/Claimant has stated that her family is having a triple storey Jhuggi No. B-541. Her mother-in-law Pushpa along with her daughter Durga is living on the ground & first floors of Jhuggi No. B-541 and regarding that DDA has made allotment in favour of his mother-in-law Pushpa. These facts are not disputed by DDA.
9. The Appellant/Claimant has also stated that she along with her husband Rahul & both the children, Rishab & Priyanshu, is living on the first floor of the said Jhuggi bearing Jhuggi No. B-541. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. B-541 but her claim has been wrongly rejected by DDA and aggrieved by the same she has filed the present Appeal for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-K, in support of her claim and prayed that DDA be directed to make alternative allotment in her favour as per the policy guidelines issued by DDA.
10. DDA has furnished the survey records along with seven video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 10.03.2023 wherein she has stated that in the first video clip her mother-in-law Pushpa is seen in her Jhuggi on the ground floor whereas in the other six video clips she (Preeti-Appellant/Claimant) is seen in her Jhuggi on the first floor of Jhuggi No. B-541 and an iron ladder going to the first floor is also seen. Further a room and a kitchen on the first floor are also seen in these video clips. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca triple storey Jhuggi of the family of the Appellant/Claimant bearing Jhuggi No. B-541 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/ Claimant & her family used the first floor of the said Jhuggi for residential purposes.
11. Accordingly, we have no hesitation in holding that the Jhuggi No. B-541 in Bhoomiheen Camp is a pucca triple storey structure and it was in existence much prior to the cutoff date


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of 01.01.2015 and further the Appellant/ Claimant & her family have been using the first floor of the said Jhuggi No. B-541 for residential purposes.

12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
13. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-K, in support of her claim and prayed that DDA be directed to make allotment in her favour.
14. It is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-541 regarding which she is claiming allotment from DDA. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/44/67.1/1093 dated 07.11.2022.
15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and .1.1 Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Pa rt-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

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1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of .1.1 dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the Ji dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. 1.1 dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible 11 dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of 11Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.

- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/Ji dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

16. As per Part—B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17. As already pointed out above, condition contained in Part—B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18. Thus Part—B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, nainely, ration card issued before 01.01.2015. Therefore, it is mandatory for the

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dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

19. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
20. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
21. The Appellant/Claimant has tendered her Voter ID Card (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of 2015 (Annexure-J) and Voter List of 2019 (Annexure-K).
22. The Appellant/Claimant has tendered the Voter ID Card bearing number ARE 1885440 (Annexure-A), which has been issued on 25.03.2014, much prior to the cut off date of 01.01.2015. The Appellant/Claimant has also tendered the Voter list of the year 2015 (Annexure-J) in which her name appears at SI. No. 1213 and the Voter list of the year 2019 (Annexure-K) in which her name appears at SI. No. 955. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

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23. The Appellant/ Claimant has admitted that she is not having a separate Ration card on the address of the first floor of the said Jhuggi No. B-541 regarding which she is claiming allotment from DDA. The Appellant/ Claimant has tendered the joint Ration Card (Annexure-I), which has been issued in the name of her mother-in-law, Pushpa, and the names of the family members, including that of the present Appellant/ Claimant, have been mentioned. This Ration Card (Annexure-I) has been issued on 02.03.2015, much after the cut off date of 01.01.2015. The Appellant/ Claimant has stated that she had applied for issuance of the Ration Card in the year 2015 but till now no Ration Card has been issued. But the fact remains that the Appellant/ Claimant is not having a separate Ration card despite of the fact that she is claiming allotment against the upper floor. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.
24. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1159599 (Annexure-D), Aadhar Card, (Annexure-E), Pan Card (Annexure-F) and Driving License (Annexure-G) dated 15.11.2011 of her husband Rahul as well as her Pass Book of PNB (Annexure-H).
25. It is pointed out that the Voter ID Card bearing number ARE 1159599 (Annexure-D) been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The Driving License (Annexure-G) has been issued on 15.11.2011. The Pass Book of PNB (Annexure-H) shows that the account was opened by the Appellant/ Claimant on 04.12.2021. But it is pertinent to point out that the documents, Annexure-D to Annexure-H, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above she was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she is claiming allotment against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.
26. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015. The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do n create ny right,

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title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. D-541 regarding which she has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

27. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/44/67.1/1093 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

28. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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Rachna
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(Satish Ahlawat)

(Rachna Tiwary)

it. Secretary (Retd.) GOI

Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 78 of 2022

Date of Institution: 21.11.2022

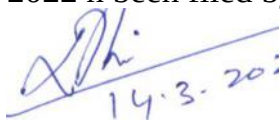
Date of Order: 14.03.2023

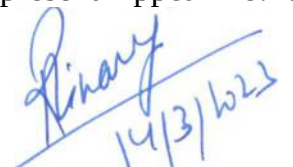
Present: Appellant/ Claimant Bablu Kumar S/o Ramjit Singh

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

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1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. D-101, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-101 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/64/75.1/1431 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No.78 of 2022 has been filed by the present Appellant/ Claimant.


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3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 20.01.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-Q, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-101 was found to exist on the upper floor but he had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/ Claimant, Bablu Kumar, has been recorded before us on 20.01.2023, wherein he has stated that his parents, Ramjit Singh & Bimla, are having two sons, namely, Dinesh & Bablu Kumar (Appellant/Claimant) and one daughter, namely, Suman. All the children are married. Dinesh is married with Kalpana

and having two children, Utkarsh & Akash and they are living on rent in Jasola, Delhi. Suman is married with Raj Kumar and she is living in her matrimonial home in Nand Nagri. Whereas Bablu Kumar (Appellant/Claimant) is married with Sunita and having three children, namely, Minakshi, Darshya & Lakshya.

8. The Appellant/ Claimant has stated that his family is having a double storey Jhuggi No. D-101. His parents, Ramjit Singh & Bimla, are living on the ground floor of the said Jhuggi No. D-101 and regarding that DDA has made allotment in favour of his mother Bimla. These facts are not disputed by DDA.
9. The Appellant/ Claimant has also stated that he along with his wife, Sunita & three children, namely, Minakshi, Darshya & Lakshya, is living on the first floor of the said Jhuggi No. D-101. The Appellant/ Claimant has sought allotment from DDA. But his claim has been rejected by DDA and aggrieved by the same he has filed Appeal No. 78 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-Q, and prayed that DDA be directed to make allotment in her favour.
10. DDA has furnished the survey records along with 11 video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 20.01.2023 wherein he has stated that in six video clips parents, Ramjit Singh & Bimla, are seen in their Jhuggi on the ground floor and in five video clips his wife Sunita is seen on the first floor and his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey pucca Jhuggi No. D-101 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.
11. Accordingly, we have no hesitation in holding that the Jhuggi No. D-101 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant & his family has been using the first floor of the said Jhuggi for residential purposes.


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1 z. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

13. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-Q, in support of his claim and prayed that DDA be directed to make allotment in his favour.

14. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card but having a joint Ration Card issued in the name of his mother, Bimla. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/64/75.1/1431 dated 07.11.2022.

15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.

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2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.

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- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/fl dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

16. As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17. As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18. Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is

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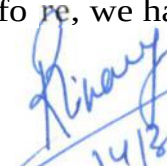
mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

- 19.The** bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
- 20.In** the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
- 21.The** Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1189844 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2012 (Annexure-L), Voter List of the year 2013 (Annexure-M), Voter List of the year 2014 (Annexure-N), Voter List of the year 2015 (Annexure-O) and the Voter List of the year 2019 (Annexure-P).
- 22.The** Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1189844 (Annexure-A), which has been issued on 24.12.2013, much prior to the cutoff date of 01.01.2015. It is pointed out that the name of the Appellant/Claimant appears at SI. No. 356 in the Voter List of the year 2012 (Annexure-L), at Si. No. 356 in the Voter List of the year 2013 (Annexure-M), at Si. No. 514 in the Voter List of the year 2014 (Annexure-N), at SI. No. 585 in the Voter List of the year 2015 (Annexure-O) and at SI. No. 786 in the Voter List of the year 2019 (Annexure-P). Therefore, we have no


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hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23.The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. D-101 regarding which he has claimed allotment from DDA. The Appellant/Claimant has tendered two joint Ration Cards (Annexure-J & Annexure-K). The old Ration Card (Annexure-J) has been issued in the name of his mother Bimla and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. The old Ration Card (Annexure-J) has been issued on 02.11.1998 in the name of his mother Bimla and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. The new Ration Card (Annexure-K) has been issued on 07.12.2014 in the name of his mother Bimla and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor of Jhuggi bearing No. D-101 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

24.The Appellant/ Claimant has also tendered the Voter ID Card bearing number ARE 1579597 (Annexure-E), Aadhar Card (Annexure-F) & Pan Card (Annexure-G) of his wife Sunita as well as the Electricity Bill (Annexure-H), his Pass Book of Andhra Bank (Annexure-I) and Application dated 24.11.2022 (Annexure-Q). The Voter ID Card bearing number 1579597 (Annexure-E), which has been issued on 09.12.2021, much after the cutoff date of 01.01.2015. The Electricity Bill (Annexure-F) shows that the electricity connection has been taken by his mother Bimla on 15.06.2008 on his ground floor Jhuggi No. D-101. He has made Application (Annexure-Q) for installation of electricity meter in his Jhuggi on 24.11.2022, much after the cutoff date of 01.01.2015. The Pass Book of Andhra Bank (Annexure-I) shows that the Appellant/Claimant has opened the account on 25.09.2014. It is pertinent to point out that the documents, Annexure-E to Annexure-I and Annexure-Q, are no help to the


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Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above he was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

25. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he has claimed allotment against the first floor. The documents, Annexure-A to Annexure-Q, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. D-101 regarding which he has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

26. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/64/75.1/1431 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

27. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.


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Jt. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)
MEMBER


(Sati h Ahlawat)
CHAIRMAN

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(Raza Tiary)
EXPERT MEMBER

BET-ORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 184 of 2022

Date of Institution: 23.11.2022

Date of Order: 14.03.2023

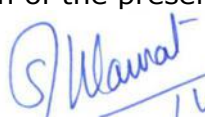
Present: Appellant/ Claimant Meena W/o Raj Kumar D/o Kannauji

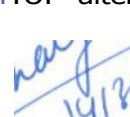
Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. B-523, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-523 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative


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allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/44/6.1/1070 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 184 of 2022 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 07.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing B-523 was found to exist on the upper floor but she had failed to submit required documents, i.e., a separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee (EDC) has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

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1. The Appellant/Claimant has stated that her parents, Kannauji & Prema, are having two sons, Raju & Jaipal and one daughter, Meena. Kannauji has expired about five years ago. All the children are married. Raju is married with Anita. Jaipal is married with Dev Lata and having three children, Avantika, Avinash & Natash. Meena (Appellant/Claimant) is married with Raj Kumar and having four children, Deepmala, Sumit, Ajit & Sujit. Meena along with her family is living with her parents in Bhoomiheen Camp.

8. The Appellant/Claimant has stated that her parents are having a double-storey Jhuggi bearing No. B-523. The Appellant/Claimant has stated that her parents, Kannauji (till his death) & Prema, along with the families of their sons, Raju & Jaipal, are living on the ground floor of Jhuggi no. B-523 and regarding that DDA has made allotment in favour of her Mother Prema. These facts are not disputed by DDA.

9. The Appellant/Claimant has further stated that she along with her husband Raj Kumar & four children, Deepmala, Sumit, Ajit & Sujit, is living on the first floor of the Jhuggi No. B-523. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi but her claim has been rejected by EDC and aggrieved by the same, she has filed the present Appeal no. 184 of 2022 before the Appellate Authority. The Appellant/Claimant has furnished documents, Annexure A to Annexure M, in support of her claim and prayed that DDA be directed to make allotment in her favour as per the policy guidelines issued by DDA.

10. DDA has furnished the survey record along with ten video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 07.03.2023 wherein she has stated that in seven video clip her mother Prema along with son Raju is seen in her Jhuggi on the ground floor and her room as well as kitchen are also seen. Further, in the remaining three video clips she (Meena-Appellant/Claimant) is seen standing in her Jhuggi on the first floor and further her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca double storey Jhuggi of the family of the Appellant/Claimant bearing Jhuggi No. B-523 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/ Claimant & her family used the first or of the said Jhuggi for residential purposes.

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11. Accordingly, we have no hesitation in holding that the Jhuggi No. B-523 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further the Appellant/ Claimant & her family have been using the first floor of the said Jhuggi No. B-523 for residential purposes.
12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
13. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-M, in support of her claim and prayed that DDA be directed to make allotment in her favour.
14. It is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of ii Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015 but having a joint Ration Card with her father, Kannauji. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/44/6.1/1070 dated 07.11.2022.
15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and 11 Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate Ji dwellers would be as under :-

1. The ii dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the 11 dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The 11 dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. 11 dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the II dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The .1.1 dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible 1.1 dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of Ji Basti.

As envisaged in para above, the JJ dwellers must p ossess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office w phot. :raph


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- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

16. As per Part—B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17. As already pointed out above, condition contained in Part—B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18. Thus Part—B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandate to ha ~~only one~~

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document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

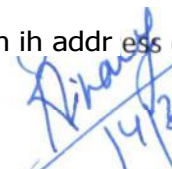
19. The bare perusal of the Policy shows that for claiming allotment for upper floor the II dwellers must be a citizen of India and not less than 18 years of age and further also that the name of II dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
20. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
21. The Appellant/Claimant has tendered her Voter ID Card bearing number ARE 1159169 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2014 (Annexure-K) and Voter List of the year 2019 (Annexure-L).
22. The Appellant/Claimant has tendered her Voter ID Card bearing number ARE 1159169 (Annexure-A), which has been issued on 27.10.2008, much prior to the cutoff date of 01.01.2015. The name of the present Appellant/Claimant appears at SI. No. 754 in the Voter List of the year 2014 (Annexure-K) and at SI. No. 807 in the Voter List of the year 2019 (Annexure-L). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 20 (prior 01-01-2015) & also in the year of survey.

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23. The Appellant/Claimant has admitted that she is not having a separate Ration Card on the address of first floor of the Jhuggi No. B-523 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-J) issued in the name of her father Kannauji on 27.08.1996 and in that the names of the family members, including that of the present Appellant/Claimant, have been recorded. But the fact remains that the Appellant/Claimant is not having a separate Ration Card on the address of first floor of the Jhuggi No. B-523 regarding which she is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.
24. The Appellant/Claimant has tendered her e-Shram Card (Annexure-D) as well as the Voter ID Card bearing number ARE 1159144 (Annexure-E), Aadhar Card (Annexure-F) & Pan Card (Annexure-G) of her husband Raj Kumar and her Pass Book of PNB (Annexure-H), Electricity Bill (Annexure-I) and Caste Certificate (Annexure-M). The Voter ID Card bearing number ARE 1159144 (Annexure-E) has been issued on 27.10.2008. The Pass Book of PNB (Annexure-H) shows that the account was opened on 17.09.2014. The Electricity Bill (Annexure-I) shows that the electricity connection has been taken by the Appellant/Claimant on 18.07.2022, much after the cutoff date of 01.01.2015. The documents, Annexure-D to Annexure-I & Annexure-M, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above she was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she is claiming allotment against the upper floor.
25. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she is claiming allotment against upper floor. The documents, Annexure-A to Annexure-M, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on ih address of first


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floor of Jhuggi No. A-523 regarding which she has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

26. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/44/6.1/1070 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.
27. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.



(Ran r Singh) ,

Jt. Secretary (Retd.) GOI

MEMBER

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(Satish Ahlawat)

Addl. District & Sessions Judge (Retd.)

CHAIRMAN




(Rachna Tiwary)

EXPERT MEMBER

ELFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 298 of 2023

Date of Institution: 25.11.2022

Date of Order: 14.03.2023

Present: Appellant/ Claimant Ajay Kumar S/o Murari Lal

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-351, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-351 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the nodal Officer,

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Bhoomiheen Camp, duly communicated its order bearing No. 385/68/6.1/1549 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 298 of 2023 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 07.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-O, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-351 was found to exist on the upper floor but he had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee (EDC) has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.



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7. The statement of the Appellant/ Claimant, Ajay Kumar, has been recorded before us on 07.03.2023, wherein he has stated that his parents, Murari Lal & Kamla, are having two sons, namely, Vijay & Ajay (Appellant/ Claimant) and three daughters, namely, Geeta , Neetu & Neha. Kamla had died in the year 2016. All the children are married. All the three daughters are living in their respective matrimonial homes in Govind Puri Delhi. Vijay is married with Mamta and having two children Shaurya & Prateek. Whereas Ajay (Appellant/ Claimant) is married with Baby Bharti and having two sons, Sumeet & Hans.
8. The Appellant/ Claimant has stated that his family is having a triple storey Jhuggi No. C-351. His father Murali Lal, along with the family of his son Vijay, is living on the ground & third floors of the said Jhuggi No. C-351 and regarding that DDA has made allotment in favour of Murari. These facts are not disputed by DDA.
9. The Appellant/ Claimant has further stated that he along with his wife Baby Bharti & both the children, Sumeet & Hans is living on the first floor of the said Jhuggi No. C-351. The Appellant/ Claimant has sought allotment from DDA. But his claim has been rejected by DDA and aggrieved by the same he has filed Appeal No. 298 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-O, and prayed that DDA be directed to make allotment in his favour.
10. DDA has furnished the survey records along with two video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 07.03.2023 wherein he has stated that in the first video clip his father Murari Lal, is seen in his Jhuggi on the ground floor and his room & kitchen are also seen and in the second video an iron ladder is seen going to the upper floor and further he (Ajay-Appellant/Claimant) is seen on the first floor and his room & kitchen are also. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. C-351 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.


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11. Accordingly, we have no hesitation in holding that the Jhuggi No. A-137 in Bhoomiheen Camp is a pucca triple storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.
12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
13. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-O, in support of his claim and prayed that DDA be directed to make allotment in his favour.
14. It is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card but having a joint Ration Card issued in the name of his mother, Kamla. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/68/6.1/1549 dated 07.11.2022.
15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:


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"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the ii cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU local Bodies.
- ✓ Passbook issued by public sector Bank/Post Office with photograph.

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- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/Ji dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

16. As per Part—B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17. As already pointed out above, condition contained in Part—B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18. Thus Part—B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But he dweller claiming allotment against upper floor not having any of

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such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

19. The bare perusal of the Policy shows that for claiming allotment for upper floor the .1i dwellers must be a citizen of India and not less than 18 years of age and further also that the name of ii dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

20.1n the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

21. The Appellant/Claimant has tendered her Voter ID Card bearing number ARE 1183987 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2015 (Annexure-N) and Voter List of the year 2019 (Annexure-O).

22. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1183987 (Annexure-A), which has been issued on 27.10.2008, much prior to the cutoff date of 01.01.2015. The name of the Appellant/Claimant appears at SI. No. 367 in the Voter List of the year 2015 (Annexure-N) and at SI. No. 366 in the Voter List of the year 2019 (Annexure-0). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also ears i t lea t on



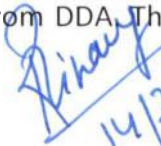
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the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23. The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. C-351 regarding which he has claimed allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-I) issued in the name of his mother Kamla on 12.12.2014 and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor bearing No. C-351 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.
24. The Appellant/ Claimant has also tendered his Driving License (Annexure-D) issued on 18.10.2011, Passport (Annexure-E) issued on 03.05.2012 as well as the Voter ID Card No. ARE 1774750 (Annexure-F) issued on 17.03.2012, Aadhar Card (Annexure-G) & Pan Card (Annexure-H) of his wife Baby Bharti, the Electricity Bill (Annexure-I) showing that the electricity connection has been taken by the Appellant/ Claimant on 07.12.2021 and Caste Certificate (Annexure-K) dated 29.12.2011. The documents, Annexure-D to Annexure-H and Annexure-K, are of no help to the Appellant/ Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above he was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.
25. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against upper floor. The documents, Annexure-A to Annexure-O, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. C-351 regarding which he has claimed allotment from DDA. Therefore,


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Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

26. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/68/6.1/1549 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.
27. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ran ti`Singh)¹⁹

(Satish Ahlawat)

(Rachna Tiwary)

Jt. Secretary (Retd.) GO! Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 449 of 2023

Date of Institution: 29.11.2022

Date of Order: 14.03.2023

Present: Appellant/ Claimant Rakesh Mandal S/o Narayan Mandal

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-25, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-25 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen

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Camp, duly communicated its order bearing No. 385/59/36.1/1175 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No.449 of 2023 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 24.01.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-G, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-25 was found to exist on the upper floor but he had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/ Claimant, Rakesh Mandal, has been recorded before us on 24.01.2023, wherein he has stated that his parents, Narain & Sandhya, are having one son, namely, Rakesh Mandal (Appellant/ Claimant) and one daughter, namely, Rikta. Narain has expired in 2021. Rakesh Mandal is unmarried. Whereas Rikta is married with Ravi and having two sons, namely, Vansh & Piyush.
8. The Appellant/ Claimant has stated that his family is having a double storey Jhuggi No. A-137 and it comprised of one room on each floor. His mother Sandhya is living on the ground floor of the said Jhuggi No. A-137 and regarding that DDA has made allotment in favour of Sandhya. These facts are not disputed by DDA.
9. The Appellant/ Claimant has also stated that he along with the family of his sister, Rikta, is living on the first floor of the said Jhuggi No. A-137. The Appellant/ Claimant has sought allotment from DDA. But his claim has been rejected by DDA and aggrieved by the same he has filed Appeal No. 449 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-G, and prayed that DDA be directed to make allotment in his favour.
10. DDA has furnished the survey records along with two video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 24.01.2023 wherein he has stated that in the first video clip his mother, Sandhya, is seen in her Jhuggi on the ground floor and in the second video clip he (Rakesh Mandal-Appellant/Claimant) is seen on the first floor. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey pucca Jhuggi No. A-137 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.
11. Accordingly, we have no hesitation in holding that the Jhuggi No. A-137 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.



12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
13. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-G, in support of his claim and prayed that DDA be directed to make allotment in his favour.
14. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card but having a joint Ration Card issued in the name of his mother, Sandhya. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/59/36.1/1175 dated 07.11.2022.
15. **First** of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

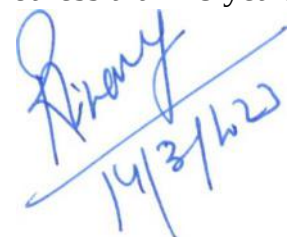
The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.


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2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Author with photograph.

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- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/Ji dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PERDDA POLICY

16.As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17.As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18.Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it **and at ry to ve**

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only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

19.The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

20. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

21.The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1772911 (Annexure-A), Aadhar Card (Annexure-I3), Pan Card (Annexure-C) and the Voter List of the year 2019 (Annexure-G).

22.The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1772911 (Annexure-A), which has been issued on 26.08.2013, much prior to the cutoff date of 01.01.2015. It is pointed out that the name of the Appellant/Claimant appears at SI. No. 563 in the Voter List of the year 2019 (Annexure-F). However, the Appellant/Claimant has not tendered the Voter Lists of the earlier years to show that he had casted his vote in the year's 2013, 2014 and 2015 (prior to 01-01-2015) by using his Voter ID Card bearing number ARE 1772911 (Annexure-A). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card **CQ** the c t off da of

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01.01.2015 and his name also appears in the Voter List of the year 2019 (Annexure-F) but there is no material on file to show that his name also appears in at least on the voter list of the year's 2013, 2014 and 2015 (prior to 01-01-2015).

23 The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. C-25 regarding which he has claimed allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-G) issued in the name of his mother Sandhya and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. However the date of issuance is not mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor of Jhuggi bearing No. C-25 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

24. The Appellant/ Claimant has also tendered his Pass Book of Allahabad Bank (Annexure-D) but the date of opening of the account is not mentioned. He has also tendered the Electricity Bill (Annexure-E) showing that the electricity connection has been taken by his father Narayan on 06.06.2008 on his ground floor Jhuggi No. C-25 thereby, showing that the Appellant/Claimant was not having electricity connection on the address of first floor of the Jhuggi No. C-25 regarding which he is claiming allotment from DDA. The documents, Annexure-D & Annexure-E, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above he was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

25. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he has claimed allotment against the first floor. The documents, Annexure-A to Annexure-G, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not fulfilling the requisite


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mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. C-25 regarding which he has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

26. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/59/36.1/1175 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

27. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

(Ranh' ingh) ¹

(Satis Ahlawat)

(Rachna Tiwary)

Jt. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 87 of 2022

Date of Institution: 21.11.2022

Date of Order: 15.03.2023

Present: Appellant/ Claimant Jay Prakash Sh o Ram Dev

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-152, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-152 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/67/067.1.1/1529 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 87 of 2022 has been filed by the present Appellant/ Clai ant.

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3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 18.01.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-152 was found to exist on the upper floor but he had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/ Claimant, Jay Prakash, has been recorded before us on 18.01.2023, wherein he has stated that his parents, Ram Dev & Shanti, are having two sons, namely, Om Prakash & Jay Prakash (Appellant/Claimant) and one daughter, namely, Krishna. Both Ram Dev and his daughter Krishna had died i t e year 2007.


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Om Prakash is married with Urmila and having three children, Depak, Jyoti & Ankita. Whereas Jay Prakash (Appellant/Claimant) is married with Mamta and having three children, namely, Nikhil, Akhil & Nitish.

8. The Appellant/ Claimant has stated that his family is having a double storey Jhuggi No. A-152. His mother, Shanti, is living on the ground floor of the said Jhuggi No. A-152 and regarding that DDA has made allotment in favour of his mother Shanti. These facts are not disputed by DDA.
9. The Appellant/ Claimant has also stated that he along with his wife, Mamta & three children, namely, Nikhil, Akhil & Nitish, along with the family of his brother Om Prakash, is living on the first floor of the said Jhuggi No. A-152. The Appellant/ Claimant has sought allotment from DDA. But his claim has been rejected by DDA and aggrieved by the same he has filed the present Appeal No. 87 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-M, and prayed that DDA be directed to make allotment in his favour.
10. DDA has furnished the survey records along with 5 video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 18.01.2023 wherein he has stated that in 3 video clips the double storey Jhuggi is seen and a pucca staircase going to the first floor is seen and further the Jhuggi on the ground floor of her mother Shanti is seen but in her place the survey was conducted by Om Prakash as at the time of survey Shanti had gone to her native village. In the next 2 videos he (Jay Prakash-Appellant/Claimant) is seen on the first floor of the said Jhuggi. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey pucca Jhuggi No. A-152 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.
11. Accordingly, we have no hesitation in holding that the Jhuggi No. A-152 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant & his family has been using the first floor of the said Jhuggi for residential purposes.

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12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
13. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-M, in support of his claim and prayed that DDA be directed to make allotment in his favour.
14. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card but having a joint Ration Card issued in the name of his mother, Shanti. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/67/067.1.1/1529 dated 07.11.2022.
15. **First** of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.


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2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the followin_g documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authorit with photograph.


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- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/Ji dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

16. As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17. As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18. Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This makes it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is

mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

19.The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

20.In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

21.The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1136167 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2019 (Annexure-F).

22.The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1136167 (Annexure-A), which has been issued on 27.10.2008, much prior to the cutoff date of 01.01.2015. It is pointed out that the name of the Appellant/Claimant appears at SI. No. 127 in the Voter List of the year 2019 (Annexure-F). However the Appellant/Claimant has not placed on file the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) to show that he had casted his vote by using his Voter ID Card bearing number ARE 1136167 (Annexure-A) in these years. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in the voter list of the ye 2019 (Annexure-


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F) but there is nothing on file to show that his name also appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015).

23.The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. A-152 regarding which he has claimed allotment from DDA. The Appellant/Claimant has tendered two joint Ration Cards (Annexure-I & Annexure-J). The old Ration Card (Annexure-1) has been issued on 22.06.2002 in the name of his father Ram Dev and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. The new Ration Card (Annexure-J) has been issued in the name of his mother Shanti and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned but the date of issuance is not mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor of Jhuggi bearing No. A-152 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

24.The Appellant/ Claimant has also tendered the Voter ID Card bearing number ARE 1136175 (Annexure-D) & Aadhar Card (Annexure-E) of his wife Mamta as well as the Pass Book of Indian Bank (Annexure-G), Electricity Bill (Annexure-H) and Aadhar Cards (Annexure- K to Annexure-M) of his children, Nikhil, Akhil & Nitish respectively. The Voter ID Card bearing number ARE 1136175 (Annexure-D) has been issued on 27.10.2008, much prior to the cutoff date of 01.01.2015. The Pass Book of Indian Bank (Annexure-G) shows that the Appellant/ Claimant had opened the account on 17.06.2005. The Electricity Bill (Annexure-H) shows that the electricity connection has been taken by his mother Shanti on 14.06.2008 on his ground floor Jhuggi No. A-152. It is pertinent to point out that the documents, Annexure- D, Annexure-E, Annexure-G, Annexure-H and Annexure-K to Annexure-m and Annexure-Q, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above he was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.



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25. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he has claimed allotment against the first floor. The documents, Annexure-A to Annexure-M, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. A-152 regarding which he has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

26. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/67/067.1.1/1529 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

27. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.



Mr. Sing)



(Satish Ahlawat)



(Rachna Tiary)

It. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

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**BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE
GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ
DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.**

Appeal No: 155 of 2022

Date of Institution: 23.11.2022

Date of Order: 15.03.2023

Present: Appellant/ Claimant Santosh Dhuria W/o Santosh D/o Ganga Prasad

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. C-451, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to .1.1 Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-451 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for an alternative

allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/10/63.G/705 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 155 of 2022 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 24.02.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-451 was found to exist on the upper floor but she had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.



7. The statement of the Appellant/ Claimant, Santoshi, has been recorded before us on 24.02.2023 wherein she has stated that her-in-laws, Shiv Mangal & Raj Kumari, are having five sons, namely, Santosh, Satya Dev, Shyam Sundar, Sunil & Pradeep. All the children except Sunil & Pradeep are married. Satya Dev is married with Kusum and having three children, namely, Harshita, Devanshi & Ritika. Shyam Sundar is married with Vandana but they are not having any issues. Santosh is married with Santoshi (Appellant/Claimant) but they are not having any issues.
8. The Appellant/Claimant has stated that her family was having a double storey Jhuggi No. C-451 and it is comprised of two rooms on the ground floor and two rooms on the first floor and it having a separate pucca stair case going from inside the ground floor to the upper floor. The first floor was not having independent access form the gali but the staircase was going from inside the ground floor to the first floor. The Appellant/Claimant has stated that Shyam Sundar along with his wife Vandana is living in the first room on the ground floor of the Jhuggi No. C-451 but he has not sought allotment from DDA regarding that Jhuggi. The Appellant/Claimant has stated that her in-laws, Shiv Mangal & Raj Kumari, are living in the second room on the ground floor of Jhuggi No. C-451 and regarding that DDA has made allotment in favour of her mother-in-law Raj Kumari. These facts are not disputed.
9. The Appellant/ Claimant has also stated that Satydev along with his wife Kusum & three children, namely, Harshita, Devanshi & Ritika, is living in one of the room on the first floor of the said Jhuggi No. C-451 but the claim of Satydev has been rejected by DDA and aggrieved by the same he has filed Appeal No. 156 of 2022 before the Appellate Authority. These facts are not disputed by DDA.
10. The Appellant/Claimant has further stated that she along with her husband Santosh is living in the second room on the first floor. The Appellant/Claimant has sought allotment from DDA against the room on the first floor of Jhuggi no. C-451 but her claim has been rejected by EDC and aggrieved by the same, she has the present Appeal No. 155 of 2022. The Appellant/Claimant has also tendered the documents Annexure-A to Annexure-J and prayed that DDA may be directed to make allotment in her favour.

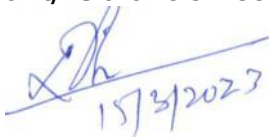

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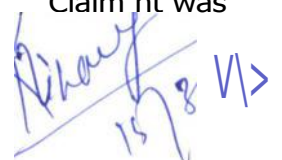
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11. DDA has furnished 6 video clips which were played before the Appellant/Claimant when her statement was recorded before us on 24.02.2023 wherein she has stated that three video clips pertain to the ground floor in which it is clearly seen that the double storey Jhuggi is having a main gate opening in the gali and from where one can enter the two rooms on the ground floor and the staircase going to the first floor is also seen and further her mother-in-law, Raj Kumari, is seen in the room on the ground floor. In the two video clips of first floor, the rooms/kitchen of the Jhuggi on the first floor of Santoshi (Appellant/Claimant) is seen and further Santoshi (Appellant/Claimant) is also seen standing. In the fifth video clip, Satya Dev is seen in the second room on the first floor and further a room/kitchen is also seen.
12. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that both the rooms on the first floor are not having independent access from the gali and the video clip furnished by DDA also corroborates it. The Double storey Jhuggi is having a main gate opening in the gali and after passing through the main gate the two rooms on the ground floor are accessible and further from inside the ground floor there is a pucca staircase going to the upper floor. Thus the upper floor is not having independent access from the gali but both the ground & first floors are having one main gate. Accordingly, the ground floor and the first floor of the said Jhuggi No. C-451 are not separate & independent dwelling units but are part & parcel of one dwelling unit.
13. Thus the statement of the Appellant/Claimant as well as the survey records/video clip has duly proved that the double storey pucca Jhuggi No. C-451 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and both the floors are found to be part & parcel of one dwelling unit and regarding Jhuggi No. C-451 DDA has made allotment in favour of the mother-in-law Raj Kumari. Two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA. But the Appellant/Claimant in collusion with his family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.
14. Now we shall first appraise the material placed on file to determine the eligibility of the Appellant/ Claimant on other parameters as to whether the Appella Claim nt was


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having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

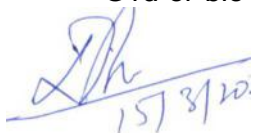
15. It is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate II dwellers of .1.1 Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card but having a joint Ration Card issued in the name of her mother-in-law raj Kumari. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/10/63.G/705 dated 07.11.2022.

16. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

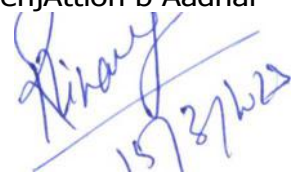
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The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of .1.1 dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the 11 dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication b Aadhar Card or bio-metric identification by other mechanism.


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6. II dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the ii dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of II Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the ii dwellers was the student of the School."


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DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

17. As per Part—B Para 6 of DDA policy 11 dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

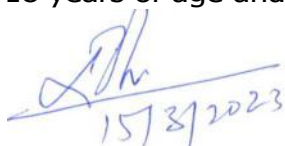
18. As already pointed out above, condition contained in Part—B Para 10 of DDA policy runs as under:

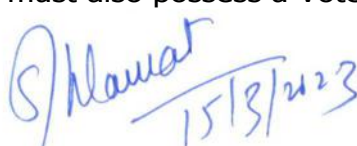
"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

19. Thus Part—B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

20. The bare perusal of the Policy shows that for claiming allotment for upper floor the II dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & separa Ration

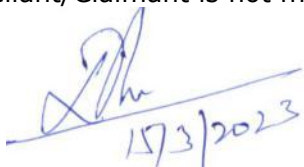
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Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

21. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
22. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1564060 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2013 (Annexure-H) and Voter List of the year 2019 (Annexure-I).
23. It is pointed out that the Voter ID Card bearing No. ARE 1564060 (Annexure-A) has been issued on 03.09.2012, much prior to the cutoff date of 01.01.2015. Further the name of the Appellant/Claimant appears at SI. No. 809 in the Voter List of the year 2013 (Annexure-H) and at SI. No. 695 in the Voter List of the year 2019 (Annexure-I). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
24. The Appellant/Claimant has admitted that she is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. C-451 regarding which she has claimed allotment from DDA. The Appellant/Claimant has tendered her two Ration Cards (Annexure-G & Annexure-J). The old Ration Card (Annexure-G) has been issued on 20.09.2008 in the name of her father-in-law, Shiv Mangal, and the names of the family members, including the name of the husband of present Appellant/Claimant, have been mentioned but the name of present Appellant/Claimant is not mentioned. New Ration Card (Annexure-J) has been issued in the name of her mother-in-law, Raj Kumari, and the names of the family members, including the name of the husband of present Appellant/Claimant, have been mentioned. It is pointed out that the name of present Appellant/Claimant is not mentioned in both the Ration Cards (Annexure-G & Annexure-J).

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But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor bearing No. C-451 regarding which she is claiming allotment from DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

25. The Appellant/Claimant has tendered the Voter ID Card No. CXY 1079201 (Annexure-D) & Aadhar Card (Annexure-E) of her husband Santosh as well as the Electricity Bill (Annexure-F). It is pointed out that the Voter ID Card bearing No. CXY 1079201 (Annexure-D) has been issued on 08.03.2002, much prior to the cutoff date of 01.01.2015. The Electricity Bill (Annexure-E) shows that the connection was issued on 03.06.2008 in the name of her father-in-law, Shiv Mangal. The abovementioned documents, Annexure-D to Annexure-F, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above she was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she is claiming allotment against the upper floor.

26. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she has claimed allotment against the first floor. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. C-451 regarding which she has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

27. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned 4th order bearing No.

385/10/63.G/705 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

28. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.



(Ranvir Singh)

7c)



(Satish Ahlawat)



(Rachna Tiwary)

Jt. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 156 of 2022

Date of Institution: 23.11.2022

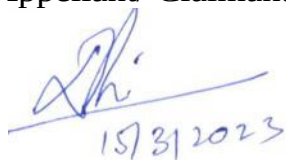
Date of Order: 15.03.2023

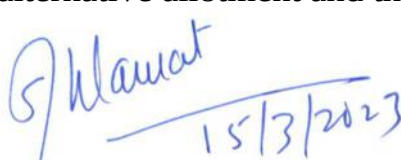
Present: Appellant/ Claimant Satyadev Sb o Shiv Mangal

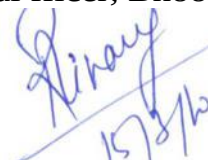
Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-451, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-451 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal officer, Bhoomiheen


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Camp, duly communicated its order bearing No. 385/10/64.G/706 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 156 of 2022 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 24.02.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-N, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-451 was found to exist on the upper floor but he had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/ Claimant, Satyadev, has been recorded before us on 24.02.2023 wherein he has stated that his parents, Shiv Mangal & Raj Kumari, are having five sons, namely, Santosh (Appellant/Claimant), Satya Dev, Shyam Sundar, Sunil & Pradeep. All the children except Sunil & Pradeep are married. Shyam Sundar is married with Vandana but they are not having any issues. Santosh is married with Santoshi but they are not having any issues. Satya Dev (Appellant/Claimant) is married with Kusum and having three children, namely, Harshita, Devanshi & Ritika.
8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. C-451 and it is comprised of two rooms on the ground floor and two rooms on the first floor and it having a separate pucca stair case going from inside the ground floor to the upper floor. The first floor was not having independent access from the gali but the staircase was going from inside the ground floor to the first floor. The Appellant/Claimant has stated that Shyam Sundar along with his wife Vandana is living in the first room on the ground floor of the Jhuggi No. C-451 but he has not sought allotment from DDA regarding that Jhuggi. The Appellant/Claimant has stated that his parents, Shiv Mangal & Raj Kumari, are living in the second room on the ground floor of Jhuggi No. C-451 and regarding that DDA has made allotment in favour of his mother Raj Kumari. These facts are not disputed by DDA.
9. The Appellant/Claimant has stated that his brother Santosh along with his wife Santoshi is living in the first room on the first floor. Santoshi has sought allotment from DDA against the room on the first floor of Jhuggi no. C-451 but her claim has been rejected by EDC and aggrieved by the same, she has the Appeal No. 155 of 2022. These facts are not disputed by DDA.
10. The Appellant/ Claimant has also stated that he along with his wife Kusum & three children, namely, Harshita, Devanshi & Ritika, is living in the second room on the first floor of the said Jhuggi No. C-451. The Appellant/Claimant has sought allotment from DDA against the said room on the first floor of Jhuggi no. C-451 but his claim has been rejected by EDC and aggrieved by the same he has filed the present Appeal No. 156 of 2022 before the Appellate Authority. The Appellant/Claimant has also tendered the documents Annexure-A to Annexure-N and prayed that DDA may be directed to make allotment in his favour.

11.DDA has furnished 6 video clips which were played before the Appellant/Claimant when her statement was recorded before us on 24.02.2023 wherein he has stated that three video clips pertain to the ground floor in which it is clearly seen that the double storey Jhuggi is having a main gate opening in the gali and from where one can enter the two rooms on the ground floor and the staircase going to the first floor is also seen and further his mother, Raj Kumari, is seen in the room on the ground floor. In the two video clips of first floor, the rooms/kitchen of the Jhuggi on the first floor of Santoshi is seen and further Santoshi is also seen standing. In the fifth video clip, he (Satya Dev-Appellant/Claimant) is seen in the second room on the first floor and further a room/kitchen is also seen.

12.The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that both the rooms on the first floor are not having independent access from the gali and the video clip furnished by DDA also corroborates it. The Double storey Jhuggi is having a main gate opening in the gali and after passing through the main gate the two rooms on the ground floor are accessible and further from inside the ground floor there is a pucca staircase going to the upper floor. Thus the upper floor is not having independent access from the gali but both the ground & first floors are having one main gate. Accordingly, the ground floor and the first floor of the said Jhuggi No. C-451 are not separate & independent dwelling units but are part & parcel of one dwelling unit.

13.Thus the statement of the Appellant/Claimant as well as the survey records/video clip has duly proved that the double storey pucca Jhuggi No. C-451 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and both the floors are found to be part & parcel of one dwelling unit and regarding Jhuggi No. C-451 DDA has made allotment in favour of the mother, Raj Kumari. Two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA. But the Appellant/Claimant in collusion with his family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.


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14. Now we shall first appraise the material placed on file to determine the eligibility of the Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

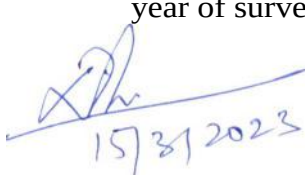
15. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card but having a joint Ration Card issued in the name of his mother, Raj Kumari. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/10/64.G/706 dated 07.11.2022.

16. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.


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4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.

- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/Ji dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

17.As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18.As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

19.Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

20. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

21. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

22. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1529353 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2014 (Annexure-M) and Voter List of the year 2019 (Annexure-N).

23. It is pointed out that the Voter ID Card bearing No. ARE 1529353 (Annexure-A) has been issued on 01.12.2005, much prior to the cutoff date of 01.01.2015. Further the name of the Appellant/Claimant appears at SI. No. 71 in the Voter List of the year 2014 (Annexure-M) and at SI. No. 90 in the Voter List of the year 2019 (Annexure-N). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

24. The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. C-451 r arding which he


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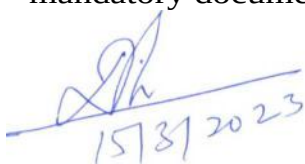

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has claimed allotment from DDA. The Appellant/Claimant has tendered his two Ration Cards (Annexure-J & Annexure-K). The old Ration Card (Annexure-J) has been issued on 20.09.2008 in the name of his father, Shiv Mangal, and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. The new Ration Card (Annexure-K) has been issued in the name of his mother, Raj Kumari, and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor bearing No. C-451 regarding which he is claiming allotment from DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

25. The Appellant/Claimant has tendered the Voter ID Card No. ARE 2221224 (Annexure-D), Aadhar Card (Annexure-E) & Pan Card (Annexure-F) of his wife Kusum as well as the Aadhar Cards (Annexure-G to Annexure-I) of his children, Harshita, Devanshi & Ritika respectively and the Electricity Bill (Annexure-L). It is pointed out that the Voter ID Card bearing No. ARE 2221224 (Annexure-D) has been issued on 04.03.2019, much after the cutoff date of 01.01.2015. The Electricity Bill (Annexure-L) shows that the connection was issued on 03.06.2008 in the name of her father, Shiv Mangal. The abovementioned documents, Annexure-D to Annexure-I and Annexure-L, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above he was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

26. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he has claimed allotment against the first floor. The documents, Annexure-A to Annexure-N, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015


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issued on the address of first floor of Jhuggi No. C-451 regarding which he has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

27. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/10/64.G/706 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

28. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.


(Ranbir Singh) 15/8/2023

(Satish Ahlawat)


(Rachna Tiwary)

Jt. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 353 of 2023

Date of Institution: 29.11.2022

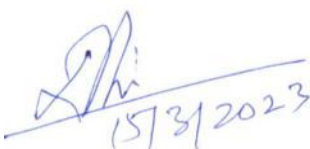
Date of Order: 15.03.2023

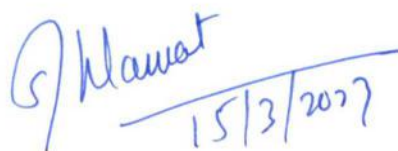
Present: Appellant/ Claimant Dipankar Sio Basudev

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-677, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-677 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for


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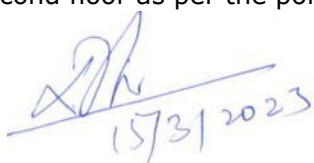

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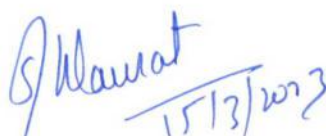

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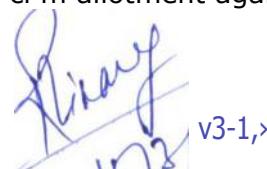
alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/10/15.G/684 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 353 of 2023 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 07.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-677 was found to exist on the upper floor but he had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.

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7. The statement of the Appellant/ Claimant, Deepankar, has been recorded before us on 07.03.2023, wherein he has stated that his parents, Basudev Pramanik and Parul, are having five sons, namely, Deepankar (Appellant/ Claimant), Deepak, Dinesh, Dilip & Diwkar. Basudev had expired about 20 years ago and Parul had expired about 6-7 years ago. All the children are married. Diwakar had married with Shefali but he had expired about 4-5 years ago and after his death Shefali is living in West Bengal. Dilip was married with Radha but his whereabouts are not known for the last over 18 years and now Radha is also living in West Bengal. Dinesh was married with Deepali and having two daughters Rekha & Rakhi. Dinesh had expired about 15 years ago. Deepak was married with Disha and having one son Arimndam. Deepanakar (Appellant/Claimant) was married with Pallavi.
8. The Appellant/ Claimant has stated that his family is having a triple storey Jhuggi No. B-677. His brother Deepak along with his family is living on the ground floor of the said Jhuggi No. B-677 and regarding that DDA has made allotment in favour of Deepak. These facts are not disputed by DDA.
9. The Appellant/ Claimant has also stated that Deepali widow of Dinesh along with her two daughters is living on the first floor of the said Jhuggi No. B-677 but the claim of Deepali has been rejected by DDA and aggrieved by the same she has filed Appeal No. 154 of 2022 before the Appellate Authority. These facts are not disputed by DDA.
10. The Appellant/ Claimant has further stated that he along with his wife Pallavi is living on the second floor of the said Jhuggi No. B-677. The Appellant/ Claimant has sought allotment from DDA. But his claim has been rejected by DDA and aggrieved by the same he has filed Appeal No. 353 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-I, and prayed that DDA be directed to make allotment in his favour.
11. It is pointed out that both the Appeal No. 154 of 2022 and the Appeal No. 353 of 2023 shall be decided separately on their respective merits.

1. DDA has furnished the survey records along with 18 video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 07.03.2023 wherein he has stated that in the six video clips of ground floor his brother, Deepak, is seen in his Jhuggi on the ground floor and his room & kitchen are also seen. In the next 6 video clips of first floor a pucca stair case going to the upper floor is seen and further his sister-in-law Deepali is seen on the first floor and her room & kitchen are also. Further in the remaining six video clips he (Deepankar- Appellant/Claimant) is seen in his Jhuggi on the second floor and a room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. B-677 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the second floor of the said Jhuggi for residential purposes.

13. Accordingly, we have no hesitation in holding that the Jhuggi No. B-677 in Bhoomiheen Camp is a pucca triple storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant has been using the second floor of the said Jhuggi for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.

15. It is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate II dwellers of .1.1 Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore,


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dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor and further he was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/10/15.G/684 dated 07.11.2022.

16. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and II Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.


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8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi is being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible 11 dwellers will be removed from the II cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

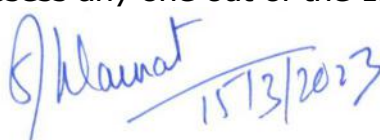
As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

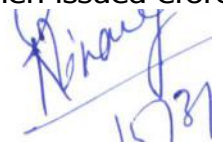
- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

- 17.** As per Part—B Para 6 of DDA policy 1.1 dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before


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01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18.1t is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part—B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

19. It is pointed out that in the policy the words *"First Floor or Second Floor or Third Floor"* are intentionally not used but the word *"Upper Floor"* is used. So in the cases where the Jhuggi is double storey there is no confusion because the *"First Floor"* of that Jhuggi without confusion is covered under the definition of *"Upper Floor"*. But in the cases where the Jhuggi is constructed more than double storey, then dispute arises with respect to the definition of *"Upper Floor"*. The moot question involved is whether the dwellers living on the second floor or third floor, akin to the dweller living on the first floor, shall also be entitled for alternative allotment if they possess requisite documents or not. In simple terms whether the word *"Upper Floor"* only connotes the *"First Floor"* or it also includes *"Second Floor"* & *"Third Floor"* of the Jhuggi.

20. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card and the e is no

doubt instead of using the word "First Floor" the word "Upper Floor" has been used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further expanded to include the dweller living on the second & third floors. Furthermore, the words "Upper Floor" cannot be interpreted to be used in plural as "Upper Floors" by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -

"13. Gender and number:- In all Central Acts and Regulations unless there is anything repugnant in the subject or context,-

(1) words importing the masculine gender shall also be taken to include females; and

(2) words in the singular shall include the plural, and vice versa.

21. The bare perusal of Part—B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitle for alternative allotment.

22. Thus we have no hesitation in holding that the words *"Upper Floor"* used in the DDA policy without confusion connotes and includes only the "First Floor" of the Jhuggi. Thus the "Second Floor" & "Third Floor" of the Jhuggi are not included in the definition of the words *"Upper Floor"* used in the policy. In simple terms the word "Upper Floor" only connotes the "First Floor" of the Jhuggi and it does not include the "Second Floor" & "Third Floor" of the Jhuggi.

In view of the matter the words "upper floor" used in Part—B Para 10 of the DDA policy only denotes ² first floor and not all the floors above the first floor meanin ereby t the

second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

23. Thus Part—B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

24. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

25. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further whether the Appellant/Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on


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the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

26. At the very outset it is pointed out that as per our discussion in detail above, we have held that the second floor is not covered under the definition of "Upper Floor" under the policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she has claimed allotment against the second floor, which is not included in the definition of upper floor under Part—B Para 10 of the policy.
27. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.
28. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1163393 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2012 (Annexure-H) & Voter List of the year 2019 (Annexure-I).
29. It is pointed out that the Voter ID Card bearing No. ARE 1163393 (Annexure-A) has been issued on 27.10.2008, much prior to the cutoff date of 01.01.2015. Further the name of the Appellant/Claimant appears at SI. No. 1113 in the Voter List of the year 2012 (Annexure-H) and at SI. No. 1217 in the Voter List of the year 2019 (Annexure-I). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
30. The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the second floor bearing No. B-677 regarding which he has claimed allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card


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(Annexure-E) issued in the name of his brother Deepak on 23.04.2010 and the names of the family members have been mentioned but the name of the present Appellant/Claimant is not mentioned. The Appellant/Claimant has tendered the new Ration Card (Annexure-F) issued in the name of his mother Parul on 04.12.2014 and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the second floor bearing No. B-677 regarding which he is claiming allotment from DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

31. The Appellant/Claimant has tendered his Pass Book of Axis Bank (Annexure-D) and Gas Booking Receipt (Annexure-G). The Pass Book of Axis Bank (Annexure-D) shows that the Appellant/Claimant has opened the account on 13.11.2018, much after the cutoff date of 01.01.2015. The Gas Booking Receipt (Annexure-G) shows that the connection was issued on 31.07.2015, much after the cutoff date of 01.01.2015. The abovementioned documents, Annexure-D & Annexure-G, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 despite the fact that he is claiming allotment against the upper floor.
32. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part—B Para 10 of the policy. The documents, Annexure-A to Annexure-I, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. B-677 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part—B Para 10 of the policy and further he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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33. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/10/15.G/684 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

34. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

Naawat
15/3/2023

Rachna
15/3/2023

(Ranbit Singh)

(Satish hlawat)

(Rachna Tiwary)

Jt. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

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BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 69 of 2022

Date of Institution: 21.11.2022

Date of Order: 16.03.2023

Present: Appellant/ Claimant Sachin Kumar S/o Harbans Prasad

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-1, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-1 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for a tentative allotment and the Nodal Officer, Bhoomi en Camp, duly

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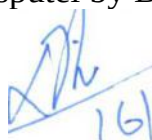
communicated its order bearing No. 385/58/78.1/1227 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 69 of 2022 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 06.01.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-1 was found to exist on the upper floor but he had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

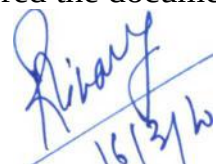
Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.




7. The statement of the Appellant/ Claimant, Sachin, has been recorded before us on 06.01.2023 wherein he has stated that his parents, Harbans & Lakhpatri, are having two sons, namely, Satish & Sachin (Appellant/Claimant) and two daughters, namely, Kamlesh & Manju. All the children are married. Kamlesh is living in her matrimonial home in Bhoomiheen Camp on rent and Manju is living in her matrimonial home in Haridwar. Satish is married with Reema and having three children, namely, Mandira, Eklavya & Ayush. Sachin (Appellant/Claimant) is married with Arti and having two children, Om Kumar & Anpurna.
8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. A-1 and it comprised of one room on the ground floor and one room & a kitchen on the first floor and it is having a separate pucca stair case going from outside in the gali to the upper floor. His parents as well as the families of Satish & Sachin are cooking food in their joint kitchen on the first floor.
9. The Appellant/Claimant has stated that his parents, Harbans & Lakhpatri, are living on the ground floor of Jhuggi No. A-1 and regarding that DDA has made allotment in favour of his father, Harbans. These facts are not disputed by DDA.
10. The Appellant/ Claimant has stated that his brother Satish along with his wife Reema and three children, is living in the room on the first floor of the said Jhuggi No. A-1. Satish has sought allotment from DDA against the said room on the first floor of Jhuggi No A-1 but his claim has been rejected by EDC and aggrieved by the same he has filed the Appeal No. 118 of 2022 before the Appellate Authority. These facts are not disputed by DDA.
11. The Appellant/Claimant has stated that his parents as well as the families of Satish & Sachin (Appellant/Claimant), are having a joint kitchen on the first floor of Jhuggi No. A-1 but in the night he along with his family is using the said kitchen for sleeping as "Night Shelter". The Appellant/Claimant has sought allotment from DDA against the said kitchen on the first floor of Jhuggi No. A-1 but his claim has been rejected by EDC and aggrieved by the same, he has filed the present Appeal No. 69 of 2022. These facts are not disputed by DDA. The Appellant/Claimant has also tendered the documents

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Annexure-A to Annexure-L, and prayed that DDA may be directed to make allotment in his favour.

12. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows his family is having a joint kitchen on the first floor and the Appellant/Claimant is not having separate room on the first floor but in the night he along with his wife Arti and both the children, Om Kumar & Anpurna, is using the said kitchen for sleeping as "Night Shelter". Further the video clips furnished by DDA also corroborates the same.
13. It is pointed out that both the Appeal No. 69 of 2022 and 118 of 2022 shall be decided separately on their individual merits.
14. DDA has furnished 11 video clips which were played before the Appellant/Claimant when his statement was recorded before us on 06.01.2023 wherein he has stated that 5 video clips pertain to the ground floor in which his parents, Harbans & Lakhpatri, are seen in their Jhuggi on the ground floor. In 2 video clips he (Sachin-Appellant/Claimant) is seen standing in the kitchen on the first floor. In 4 video clips, Satish and his wife, Reema, are seen in the room on the first floor. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey pucca Jhuggi No. A-1 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and it comprised of one room on the ground floor and one room & a kitchen on the first floor. It is also proved that Harbans & Lakhpatri, who are the parents of the Appellant/Claimant, are living on the ground floor of Jhuggi No. A-1 and family is having a joint kitchen on the first floor but in the night the Appellant/Claimant, Sachin, along with his family is using the said kitchen for sleeping as "Night Shelter" whereas his brother Satish has been using the room on the first floor of the said Jhuggi No. A-1 for residential purposes.
15. Accordingly, we have no hesitation in holding that the Jhuggi No. B-677 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and it comprised of one room on the ground floor and one room & a kitchen on the first floor. It is also held that Harbans & Lakhpatri, who are the parents of the Appellant/Claimant, are living on the ground floor of Jhuggi No. A-1 and family is having a joint kitchen on the first floor but in the night the

Appellant/Claimant, Sachin, along with his family is using the said kitchen for sleeping as "Night Shelter" whereas his brother Satish has been using the room on the first floor of the said Jhuggi No. A-1 for residential purposes. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a separate dwelling unit but he was living jointly with his parents, who were having a joint kitchen on the first floor but in the night the Appellant/Claimant, Sachin, along with his family is using the said kitchen for sleeping as "Night Shelter" Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not living separately & independently on the first floor of Jhuggi No. A-1 regarding which he has claimed allotment from DDA.

16. Now we shall first appraise the material placed on file to determine the eligibility of the Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

17. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card but having a joint Ration Card issued in the name of his father, Harbans. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/58/78.1/1227 dated 07.11.2022.

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18.First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
- 9 In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passpor.

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- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

19.As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

20.As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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21. Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

22. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23 Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

24. The Appellant/Claimant has tendered his Voter ID Card No. CXY 1082247 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2013 (Annexure-E), Voter List of the year 2014 (Annexure-F) and Voter List of the year 2019 (Annexure-G).

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25. It is pointed out that Voter ID Card No. CXY 1082247 (Annexure-A), has been issued on 09.03.2002, much prior to the cutoff date of 01.01.2015. Further the name of the Appellant/Claimant appears at Si. No. 8 in the Voter List of the year 2012 (Annexure-E), at Si. No. 8 in the Voter List of the year 2014 (Annexure-F) and at Si. No. 8 in the Voter List of the year 2019 (Annexure-G). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

26. The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. A-1 regarding which he has claimed allotment from DDA. The Appellant/Claimant has tendered his two joint Ration Cards (Annexure-K & Annexure-L). The old Ration Card (Annexure-K) has been issued on 22.06.2002 in the name of his father, Harbans, and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. The new Ration Card (Annexure-L) has been issued in the name of his mother Lakhpati, and the names of the family members have been mentioned but the name of the present Appellant/Claimant has been missing. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor bearing No. A-1 regarding which he is claiming allotment from DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

27. The Appellant/Claimant has tendered his Driving License (Annexure-D), Passport (Annexure-H), Pass Book of PNB (Annexure-I) and Electricity Bill (Annexure-J). It is pointed out that the Driving License (Annexure-D) has been issued on 18.02.2021. The Passport (Annexure-H) shows that it has been issued on 14.08.2008. The Pass Book of PNB (Annexure-I) shows that the Appellant/Claimant has opened the account on 28.02.2013. The Electricity Bill (Annexure-J) shows that the connection was issued on 21.06.2008 in the name of her father, Harbans. The abovementioned documents, Annexure-D and Annexure-H to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above he was not having a separate

Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

28. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he has claimed allotment against the first floor. The documents, Annexure-A to Annexure-L, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. A-1 regarding which he has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

29. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/58/78.1/1227 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

30. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.



(Ranbir Singh) ^{41 9A7}

(Satis Ahlawat)

(Rachna )

Jt. Secretary (Retd.) GO! Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 118 of 2022

Date of Institution: 22.11.2022

Date of Order: 16.03.2023

Present: Appellant/ Claimant Satish Kumar Sb o Harbans Prasad

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-1, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-1 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly

communicated its order bearing No. 385/58/0068.1-A/1148 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 118 of 2022 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 06.01.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-1 was found to exist on the upper floor but he had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

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7. The statement of the Appellant/ Claimant, Satish, has been recorded before us on 06.01.2023 wherein he has stated that his parents, Harbans & Lakhpati, are having two sons, namely, Satish (Appellant/Claimant) & Sachin and two daughters, namely, Kamlesh & Manju. All the children are married. Kamlesh is living in her matrimonial home in Bhoomiheen Camp on rent and Manju is living in her matrimonial home in Haridwar. Sachin is married with Arti and having two children, Om Kumar & Anpurna. Satish (Appellant/Claimant) is married with Reema and having three children, namely, Mandira, Eklavya & Ayush.
8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. A-1 and it comprised of one room on the ground floor and one room & a kitchen on the first floor and it is having a separate pucca stair case going from outside in the gali to the upper floor. His parents as well as the families of Satish & Sachin are cooking food in their joint kitchen on the first floor.
9. The Appellant/Claimant has stated that they are having a joint kitchen on the first floor of Jhuggi No. A-1 but in the night his brother Sachin along with his family is using the said kitchen for sleeping as "Night Shelter". Sachin has sought allotment from DDA against the said kitchen on the first floor of Jhuggi No. A-1 but his claim has been rejected by EDC and aggrieved by the same, he has the Appeal No. 69 of 2022. These facts are not disputed by DDA.
10. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that Sachin is not having separate room on the first floor but the family is having a joint kitchen on the first floor and in the night his brother Sachin along with his family is using the said kitchen for sleeping as "Night Shelter". Further the video clip furnished by DDA also corroborates the same.
11. The Appellant/Claimant has stated that his parents, Harbans & Lakhpati, are living on the ground floor of Jhuggi No. A-1 and regarding that DDA has made allotment in favour of his father, Harbans. These facts are not disputed by DDA.
12. The Appellant/ Claimant has also stated that he along with his wife Reema and having three children, namely, Mandira, Eklavya & Ayush, is living in the room on the first


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floor of the said Jhuggi No. A-1. The Appellant/Claimant has sought allotment from DDA against the said room on the first floor of Jhuggi No A-1 but his claim has been rejected by EDC and aggrieved by the same he has filed the present Appeal No. 118 of 2022 before the Appellate Authority. The Appellant/Claimant has also tendered the documents Annexure-A to Annexure-L and prayed that DDA may be directed to make allotment in his favour.

13. It is pointed out that both the Appeal No. 69 of 2022 and 118 of 2022 shall be decided separately on their individual merits.

14. DDA has furnished 11 video clips which were played before the Appellant/Claimant when his statement was recorded before us on 06.01.2023 wherein he has stated that 5 video clips pertain to the ground floor in which his parents, Harbans & Lakhpati, are seen in their Jhuggi on the ground floor. In 2 video clips Sachin is seen standing in the kitchen on the first floor. In 4 video clips, he (Satish-Appellant/Claimant) and his wife, Reema, are seen in the room on the first floor. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey pucca Jhuggi No. A-1 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and it comprised of one room on the ground floor and one room & a kitchen on the first floor. It is also proved that, Harbans & Lakhpati, who are parents of the present Appellant/Claimant are living on the ground floor of Jhuggi No. A-1 and family is having a joint kitchen on the first floor but in the night his brother Sachin along with his family is using the said kitchen for sleeping as "Night Shelter" whereas the Appellant/Claimant has been using the room on the first floor of the said Jhuggi No. A-1 for residential purposes.

15. Accordingly, we have no hesitation in holding that the Jhuggi No. B-677 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and it comprised of one room on the ground floor and one room & a kitchen on the first floor. It is also held that the parents, Harbans & Lakhpati, of the Appellant/Claimant are living on the ground floor of Jhuggi No. A-1 and family is having a joint kitchen on the first floor but in the night his brother Sachin along with his family is using the said kitchen for sleeping as "Night Shelter" whereas the

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Appellant/Claimant has been using the room on the first floor of the said Jhuggi No. A-1 for residential purposes.

16. Now we shall first appraise the material placed on file to determine the eligibility of the Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

17. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate II dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card but having a joint Ration Card issued in the name of his father, Harbans. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/58/0068.1-A/1148 dated 07.11.2022.

18. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.

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2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.

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- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

19.As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

20.As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

21.Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him^A is man atory to have

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only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

22. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
23. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
24. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), Pan Card (Annexure-D), Voter List of the year 2012 (Annexure-F) and Voter List of the year 2019 (Annexure-G).
25. It is pointed out that both the Voter ID Cards (Annexure-A & Annexure-B) are bearing the same number, i.e., CXY 1072818 and have been issued on the same address of Jhuggi No. A-1. The first Voter ID Card (Annexure-A) has been issued on 06.03.2002, much prior to the cutoff date of 01.01.2015 and second Voter ID Card (Annexure-B) has been issued 13.03.2008. Further the name of the Appellant/Claimant appears at Si. No. 7 in the Voter List of the year 2012 (Annexure-F) and at SI. No. 7 in the Voter List of the year 2019 (Annexure-G) and further in both the voter lists the number of the Voter ID Card of the Appellant/ Claimant has been recorded to be bearing number CXY


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1072818. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

26. The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. A-1 regarding which he has claimed allotment from DDA. The Appellant/Claimant has tendered his two joint Ration Cards (Annexure-K & Annexure-L). The old Ration Card (Annexure-K) has been issued on 22.06.2002 in the name of his father, Harbans, and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. The new Ration Card (Annexure-L) has been issued in the name of his mother Lakhpatri, and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor bearing No. A-1 regarding which he is claiming allotment from DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

27. The Appellant/Claimant has tendered his Driving License (Annexure-E), Electricity Bill (Annexure-H), Pass Book of SBI (Annexure-I) and Passport (Annexure-J). It is pointed out that the Driving License (Annexure-E) has been issued on 13.06.2002. The Electricity Bill (Annexure-H) shows that the connection was issued on 11.06.2008 in the name of her father, Harbans. The Pass Book of SBI (Annexure-I) shows that the Appellant/Claimant has opened the account on 14.09.2012 and the Passport (Annexure-J) shows that it has been issued on 01.05.2009. The abovementioned documents, Annexure-E and Annexure-H to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above he was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.


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28. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he has claimed allotment against the first floor. The documents, Annexure-A to Annexure-L, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. A-1 regarding which he has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

29. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/58/0068.1-A/1148 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

30. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

(Ratnabli Singh) 174211.P

(Satish Ahlawat)

(Rachna Tiwary)

Jt. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 368 of 2023

Date of Institution: 29.11.2022

Date of Order: 16.03.2023

Present: Appellant/Claimant Muhid S/o Lallan

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. D-14, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. D-14 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/19/14.1/798 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 368 of 2023 has been filed by the present Appellant/Claimant.

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3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 22.02.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-O, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. D-14 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/ Claimant, Muhid, has been recorded before us on 22.02.2023, wherein he has stated that his parents, LaIlan & Tahira, are having six sons, namely, Firoj Ahmad, Sikandar, Muhid, Mansur, Saddam & Rahman and three daughters, namely, Nurjahan, Shahjahan & Shabnam. LaIlan has expired in 2009. All the children except Saddam are married. Nurjahan, Shahjahan & Shabnam are living in


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their respective matrimonial homes in Uttar Pradesh whereas Sikandar with his family is living in Mumbai and Rahman with his wife Shanu is living on rent in Bhoomiheen Camp. Mansur is married with Farin. Firoj Ahmad is married with Zainab and having two children, Altmas & Fatima. Muhid (Appellant/ Claimant) is married with Shabana and having four children, Salman, Khushi, Sayma & Arman.

8. The Appellant/ Claimant has stated that his family is having a four-storey Jhuggi No. D-14. His parents, Lallan (till his death) & Tahira, along with Saddam, are living on the ground floor of the said Jhuggi No. D-14 and regarding that DDA has made allotment in favour of his mother, Tahira. The Appellant/ Claimant has also stated that his brother Firoj Ahmad along with his wife Jainab & two children, Altmas & Fatima, is living on the second floor of the said Jhuggi No. D-14 but the claim of Firoj Ahmad has been rejected by EDC and he has filed Appeal No.162 of 2022 before the Appellate Authority. The Appellant/ Claimant has also stated that his brother Mansur with his family is living on the third floor of the said Jhuggi No. D-14 but he has not claimed allotment from DDA. These facts are not disputed by DDA.
9. The Appellant/ Claimant has further stated that he along with his wife Shabana and four children, Salman, Khushi, Sayma & Arman, is living on the first floor of the said Jhuggi No. D-14. The Appellant/ Claimant has sought allotment from DDA. But his claim has been rejected by EDC and aggrieved by the same he has filed the present Appeal No. 368 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-O, and prayed that DDA be directed to make allotment in his favour.
- 10.DDA has furnished the survey records along with seventeen video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 22.02.2023 wherein he has stated that in ten video clips his mother, Tahira, is seen in her Jhuggi on the ground floor and small shop situated outside the Jhuggi and further her room & kitchen are seen. In other three video clips he (Muhid-Appellant/Claimant) is seen on the first floor and the room & kitchen as well as pucca staircase going to the second floor are also seen. Further in the remaining four video clips his brother Firoj Ahmad is seen in his Jhuggi on the second floor and the room & kitchen are als seen. However, there is no video of third floor becaus Mansur had not

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submitted claim against the said third floor. There is nothing to disbelieve the statement of the to the effect that Jhuggi No. D-14 is four-storey structure. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the four-storey pucca Jhuggi No. D-14 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.

11. Accordingly, we have no hesitation in holding that the Jhuggi No. D-14 in Bhoomiheen Camp is a pucca four-storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.

12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

13. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-O, in support of his claim and prayed that DDA be directed to make allotment in his favour.

14. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is having a joint Ration Card with his mother, Tahira. In the present appeal

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the Appellant/ Claimant is not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-14 regarding which he is claiming allotment from DDA. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/19/4.1/798 dated 07.11.2022.

15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is •ving o upper

floor, the same will also be considered for allotment of a separate dwelling units.

11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

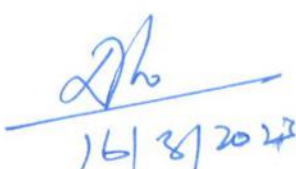
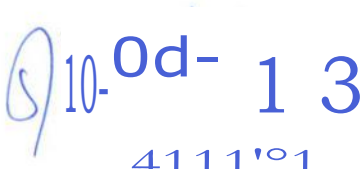
As envisaged in para above the dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- identity Card with Photograph issued in the name of descendants of the slum/Ji dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

16. As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY


17. As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18. Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

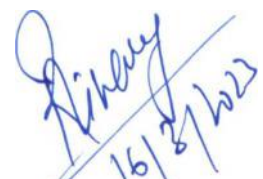
GIST OF THE POLICY

19. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

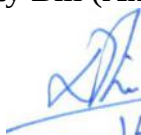
20. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.


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21. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1534725, (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of 2014 (Annexure-L) and Voter List of 2019 (Annexure-M).
22. The Appellant/Claimant has tendered the Voter ID Card bearing number ARE 1534725 (Annexure-A), which has been issued on 03.08.2012, much prior to the cut off date of 01.01.2015. The Appellant/Claimant has also tendered the Voter list of the year 2014 (Annexure-L) in which his name appears at SI. No. 59 and the Voter list of the year 2019 (Annexure-M) in which his name appears at SI. No. 151. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2015 and 2019 (prior to 01-01-2015) & also in the year of survey.
23. The Appellant/ Claimant has admitted that he is not having a separate Ration card on the address of the first floor of the said Jhuggi No. D-14 regarding which he is claiming allotment from DDA. He has tendered Joint Ration Card (Annexure-P), which has been issued in the name of his mother, Tahira and the names of the family members, including that of the present Appellant/ Claimant, have been mentioned. But the fact remains that the Appellant/ Claimant is not having a separate Ration card despite of the fact that he is claiming allotment against the upper floor. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.
24. The Appellant/Claimant has tendered his Driving license (Annexure-D), his bank Pass Book of IDB1 Bank (Annexure-E) as well as the Voter ID Card bearing number ARE 2068857(Annexure-F) & Aadhar Card (Annexure-G) of his wife Shabana, Aadhar Cards (Annexure-H to Annexure-J, of his children, Khushi, Salman & Shayna, his Gas Connection (Annexure- K) and Electricity Bill issued (Annexure-N).
25. It is pointed out that the Driving license (Annexure-D) has been issued on 24.06.2014 and the Pass Book of IDBI Bank (Annexure-E) shows that the account was opened by the Appellant/ Claimant on 09.09.2014. The Gas Connection (Annexure- K) shows that the gas connection has been taken by the Appellant/ Claimant on 08.02.2015. The Electricity Bill (Annexure-N) shows that the electricity connection s been take by


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the Appellant/ Claimant on 20.02.2017. The documents, Annexure-D to Annexure-K and Annexure N are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above he was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

26. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015. The documents, Annexure-A to Annexure-O, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. D-14 regarding which he has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.
27. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/19/14.1/798 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.
28. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

(Ranbi Singh)) VI ^{1A9}

(Satis Ahla7at) ^{tj\}

(Rachna Tiwary)

Jt. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 696 of 2023

Date of Institution: 31.01.2023

Date of Order: 16.03.2023

Present: Appellant/ Claimant Mohd. Sirazuddin Sb o Mohd Sayad

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-14, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to II Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-14 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/7/23.1/1612 dated


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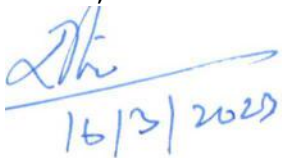

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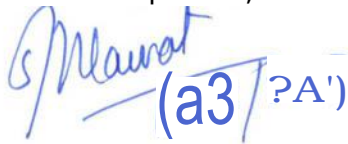
07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 696 of 2023 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 14.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-14 was found to exist on the upper floor but she had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/ Claimant, Mohd. Sirazuddin, has been recorded before us on 14.03.2023, herein he has stated that his par nts, Mohd. Sayad & t1himul isha, are


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having two sons, namely, Shahabuddin & Sirazuddin and two daughters, namely, Shehnaz & Mehnaz. All the children are married. Both the daughters are married and living in their respective matrimonial homes in Sultanpur U.P and Mumbai. Shahabuddin is married with Nasseem and having three children, namely, Tazuddin, Sarfaraz & Sameer and he is living on rent in Sangam Vihar. Shirajuddin (Appellant/Claimant) is married with Parveen and having three children, namely, Shahnawaz, Azam & Aayat.

8. The Appellant/ Claimant has stated that his family is having a double storey Jhuggi No. B-14. His parents, Mohd. Sayad & Shahimul Nisha, are living on the ground floor of the said Jhuggi No. B-14 and regarding that DDA has made allotment in favour of his mother Shahimul Nisha. These facts are not disputed by DDA.
9. The Appellant/ Claimant has also stated that he along with his wife and children is living on the first floor of the said Jhuggi No. B-14. The Appellant/ Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. B-14. But his claim has been rejected by DDA and aggrieved by the same he has filed Appeal No. 696 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-L, and prayed that DDA be directed to make allotment in his favour.
10. DDA has furnished the survey records along with 10 video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 14.03.2023 wherein he has stated that in 4 video clips of ground floor his mother, Shahimul Nisha is seen in her Jhuggi on the ground floor and a room & kitchen are also seen. In the next 6 video clips of first floor a pucca staircase going to the upper floor is also seen and he (Shirajuddin- Appellant/Claimant) along with his wife Praveen is seen on the first floor and his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey pucca Jhuggi No. B-14 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.

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11. Accordingly, we have no hesitation in holding that the Jhuggi No. B-14 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.
12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
13. It is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of 11 Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card but having a joint Ration Card with his parents. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/7/23.1/ 1612 dated 07.11.2022.
14. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Pa rt-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the 1.1 dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residin g in the Jhuggi for b coming eligible for rehabilitation shall be 01-01-2015.

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3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.

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- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the .11 dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

15. As per Part—B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

16. As already pointed out above, condition contained in Part—B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

17. Thus Part—B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

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GIST OF THE POLICY

18. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of 11 dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
19. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
20. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1142298 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2014 (Annexure-K) & Voter List of the year 2019 (Annexure-L).
21. It is pointed out that the Voter ID Card bearing No. ARE 1142298 (Annexure-A) has been issued on 21.03.2012, much prior to the cutoff date of 01.01.2015. Further the name of the Appellant/Claimant appears at SI. No. 47 in the Voter List of the year 2014 (Annexure-K) and at SI. No. 44 in the Voter List of the year 2019 (Annexure-L). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
22. The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. B-14 regarding which he has claimed

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allotment from DDA. The Appellant/Claimant has tendered two joint Ration Cards (Annexure-I and Annexure-J). The old Ration Card (Annexure-I) has been issued in the name of his father Mohd. Sayad on 22.06.2002 and the New Ration Card (Annexure-J) has been issued in the name of his mother Sahimul Nisha on 26.11.2014. It is pointed out that in both the Ration Cards the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor bearing No. B-14 regarding which he is claiming allotment from DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

23. The Appellant/Claimant has tendered the RC of his Motor Cycle (Annexure-D), Pass Book of PNB (Annexure-E), Courier Receipt (Annexure- F), LIC policy (Annexure-G) and Electricity Bill (Annexure-H)). The RC (Annexure-D) shows that it was issued on 04.08.2015. The Pass Book of PNB (Annexure-E) shows that the Appellant/Claimant has opened the account on 01.08.2009. The courier Receipt (Annexure-F) shows that it bears date 16.01.2023. The LIC policy (Annexure-G) shows that it was issued on 30.02.2005. The Electricity Bill (Annexure-H) shows that the connection was issued on 02.07.2008 in the name of his father Mohd. Sayad. The above mentioned documents, Annexure-D to Annexure-H, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above he was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

24. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he has claimed allotment against the first floor. The documents, Annexure-A to Annexure-L, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. B-14 regarding which he has claimed allotment from DD Therefore,

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Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

25. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/7/23.1/1612 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.
26. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.


(Ranbir Singh) **19** 24/11/22


(Satish hlawat) 16/3/23


(Rachna Tiway)

Jt. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

**BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE
GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ
DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.**

Appeal No: 64 of 2022

Date of Institution: 21.11.2022

Date of Order: 17.03.2023

Present: Appellant/ Claimant Bishwajeet Sarkar Sio Amar Sarkar

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-634, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-634 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim


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of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/44/40.1/1082 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No.64 of 2022 has been filed by the present Appellant/ Claimant.

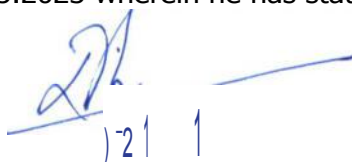
3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 13.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-R, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-634 was found to exist on the upper floor but he had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

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7. The statement of the Appellant/ Claimant, Bishwajit, has been recorded before us on 13.03.2023, wherein he has stated that his parents, Amar Sarkar & Ambika, are having three sons, namely, Pradeep, Mohan & Bishwajit (Appellant/ Claimant). All the sons are married. Pradeep is married with Sumitra and having two children, Ayush & Aryan. Mohan is married with Neha having one son Aarav. Bishwajit (Appellant/ Claimant) is married with Anita and having two children, namely, Arushi and Akriti
8. The Appellant/ Claimant has stated that his family is having a triple storey Jhuggi No. B-634. His parents, Amar Sarkar & Ambika, are living on the ground floor of the said Jhuggi No. B-634 along with their son Pradeep and his family and regarding that DDA has made allotment in favour of his mother Ambika. These facts are not disputed by DDA.
9. The Appellant/Claimant has further stated that his brother Mohan along with his wife, Neha, & son Aarav, is living on the second floor of Jhuggi No. B-634. Mohan has sought allotment from DDA against the second floor of Jhuggi No. B-634 but his claim for allotment was rejected by DDA. Aggrieved by the same he had filed appeal No. 65 of 2022 before the Appellate Authority for redressal.
10. The Appellant/ Claimant has also stated that he along with his wife, Anita & two children, namely, Akriti and Arushi, is living on the first floor of the said Jhuggi No. B-634. The Appellant/ Claimant has sought allotment from DDA against the first floor. But his claim has been rejected by DDA and aggrieved by the same he has filed Appeal No. 64 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-R, and prayed that DDA be directed to make allotment in his favour.
11. It is pointed out that both the Appeal No. 64 of 2022 and Appeal No. 65 of 2022 shall be decided separately on their individual merits.
12. DDA has furnished the survey records along with 12 video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 13.03.2023 wherein he has stated that in the first 2 video clips his mother Ambika is seen


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standing on the ground floor of her Jhuggi No. B-634. Further in the 6 video clips of the first floor he (Bishwajit- Appellant/Claimant) is seen standing on the first floor and his room and & kitchen are also seen in these videos. In the next 4 videos of second floor Mohan is seen standing in his room and his kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double triple pucca Jhuggi No. B-634 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.

13. Accordingly, we have no hesitation in holding that the Jhuggi No. B-634 in Bhoomiheen Camp is a pucca triple storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.
14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
15. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-R, in support of his claim and prayed that DDA be directed to make allotment in his favour.
- 16.** It is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate ii dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the p ellant/ Claimant has

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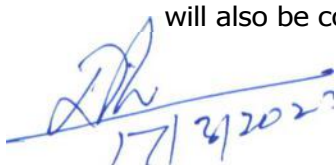
claimed allotment against the upper floor but he is not having a separate Ration Card but having a joint Ration Card issued in the name of his mother, Ambika. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/44/40.1/1082 dated 07.11.2022.

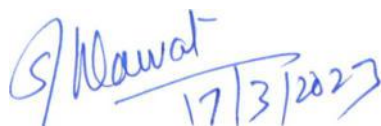
17. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and 1.1 Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

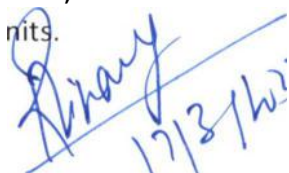
"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of ii dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the II dwellers must appear in the survey conducted by LM Department.
5. The II dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.

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11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor)AS PERDDA POLICY

18. As per Part—B Para 6 of DDA policy II dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

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DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part—B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

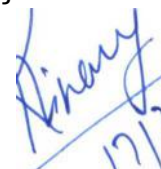
20. Thus Part—B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the .1.1 dwellers must be a citizen of India and not less than 18 years of age and further also that the name of A dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
22. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.


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23. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1162247 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2012 (Annexure-N), Voter List of the year 2013 (Annexure-O), Voter List of the year 2014 (Annexure-P), Voter List of the year 2015 (Annexure-Q) and the Voter List of the year 2019 (Annexure-R).
24. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1162247 (Annexure-A), which has been issued on 18.11.2010, much prior to the cutoff date of 01.01.2015. It is pointed out that the name of the Appellant/Claimant appears at SI. No. 997 in the Voter List of the year 2012 (Annexure-N), at SI. No. 997 in the Voter List of the year 2013 (Annexure-O), at SI. No. 1075 in the Voter List of the year 2014 (Annexure-P), at SI. No. 1108 in the Voter List of the year 2015 (Annexure-Q) and at SI. No. 1113 in the Voter List of the year 2019 (Annexure-R). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
25. The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. B-634 regarding which he has claimed allotment from DDA. The Appellant/Claimant has tendered two joint Ration Cards (Annexure-G & Annexure-H). The old Ration Card (Annexure-G) has been issued on 22.06.2002 in the name of his father, Amar Sarkar, and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. The new Ration Card (Annexure-H) has been issued in the name of his mother Ambika and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned but the date of issuance has not been mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor of Jhuggi bearing No. B-634 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.


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26. The Appellant/ Claimant has also tendered his Driving License (Annexure-D), Pass Book of PNB (Annexure-E), Electricity Bill (Annexure-F) as well as the Voter ID Card bearing number ARE 1555200 (Annexure-I), Aadhar Card (Annexure-J) & Pan Card (Annexure-K) of his wife Anita and Aadhar Cards, Annexure-L & Annexure-M, of his daughters, Arushi & Akriti. The Driving License (Annexure-D) has been issued on 11.11.2010. The Pass Book of PNB (Annexure-E) shows that the Appellant/Claimant has opened the account on 21.08.2018. The Electricity Bill (Annexure-F) shows that the electricity connection has been taken by his father Amar on 13.05.2008 on his ground floor Jhuggi No. B-634. But the fact remains that the Appellant/Claimant was not having electricity connection on the address of first floor of the Jhuggi No. B-634 regarding which he is claiming allotment from DDA. The Voter ID Card bearing number ARE 1555200 (Annexure-I) has been issued on 10.02.2014, much prior to the cutoff date of 01.01.2015. It is pertinent to point out that the documents, Annexure-D to Annexure-F and Annexure-I to Annexure-M, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above he was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.
27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he has claimed allotment against the first floor. The documents, Annexure-A to Annexure-R, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. B-634 regarding which he has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.
28. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugner order bearing N

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385/44/40.1/1082 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

29. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.



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(Sati Ahlawat)



(Rachna Tiwary)



it. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOO MIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 65 of 2022

Date of Institution: 21.11.2022

Date of Order: 17.03.2023

Present: Appellant/ Claimant Mohan Sarkar S/o Amar Sarkar

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-634, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-634 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Office, Bhoomiheen

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Camp, duly communicated its order bearing No. 385/44/40.2/1083 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 65 of 2022 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 13.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-R, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-634 was found to exist on the upper floor but he had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.

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7. The statement of the Appellant/ Claimant, Mohan, has been recorded before us on 13.03.2023, wherein he has stated that his parents, Amar Sarkar & Ambika, are having three sons, namely, Pradeep, Mohan (Appellant/ Claimant) & Bishwajit. All the sons are married. Pradeep is married with Sumitra and having two children, Ayush & Aryan. Bishwajit is married with Anita and having two children, namely, Arushi and Akriti. Mohan (Appellant/ Claimant) is married with Neha having one son Aarav.
8. The Appellant/ Claimant has stated that his family is having a triple storey Jhuggi No. B-634. His parents, Amar Sarkar & Ambika, are living on the ground floor of the said Jhuggi No. B-634 along with their son Pradeep and his family and regarding that DDA has made allotment in favour of his mother Ambika. These facts are not disputed by DDA.
9. The Appellant/Claimant has further stated that his brother Bishwajit along with his wife, Anita & two children, namely, Akriti and Arushi, is living on the first floor of Jhuggi No. B-634. Bishwajit has sought allotment from DDA against the first floor of Jhuggi No. B-634 but his claim for allotment was rejected by DDA. Aggrieved by the same he had filed appeal No. 64 of 2022 before the Appellate Authority for redressal.
10. The Appellant/ Claimant has also stated that he along with his wife, Neha, & son Aarav, is living on the second floor of the said Jhuggi No. B-634. The Appellant/ Claimant has sought allotment from DDA against the second floor. But his claim has been rejected by DDA and aggrieved by the same he has filed Appeal No. 65 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-Q, and prayed that DDA be directed to make allotment in his favour.
11. It is pointed out that both the Appeal No. 64 of 2022 and Appeal No. 65 of 2022 shall be decided separately on their individual merits.
12. DDA has furnished the survey records along with 12 video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 13.03.2023 wherein he has stated that in the first 2 video clips his mother Ambika is seen standing on the ground floor of her Jhuggi No. B-634. Further in the 6 video clips


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of the first floor Bishwajit is seen standing on the first floor and his room and & kitchen are also seen in these videos. in the next 4 videos of second floor he (Mohan - Appellant/Claimant) is seen standing in his room and his kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double triple pucca Jhuggi No. B-634 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the second floor of the said Jhuggi for residential purposes.

13. Accordingly, we have no hesitation in holding that the Jhuggi No. B-634 in Bhoomiheen Camp is a pucca triple storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant has been using the second floor of the said Jhuggi for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.

15. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-R, in support of his claim and prayed that DDA be directed to make allotment in his favour.

16. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living n the first floor is


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—igible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor and further he was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/44/40.2/1083 dated 07.11.2022.

17. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate Jj dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi used solely for commercial purpose.


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9. In case, the jhuggi is being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above the jidwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

**DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor)
AS PER DDA POLICY**

18. As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This

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list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19.It is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part-B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

20.It is pointed out that in the policy the words "First Floor or Second Floor or Third Floor" are intentionally not used but the word "Upper Floor" is used. So in the cases where the Jhuggi is double storey there is no confusion because the "First Floor" of that Jhuggi without confusion is covered under the definition of "Upper Floor". But in the cases where the Jhuggi is constructed more than double storey, then dispute arises with respect to the definition of "Upper Floor". The moot question involved is whether the dwellers living on the second floor or third floor, akin to the dweller living on the first floor, shall also be entitled for alternative allotment if they possess requisite documents or not. In simple terms whether the word "Upper Floor" only connotes the "First Floor" or it also includes "Second Floor" & "Third Floor" of the Jhuggi.

21.But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card and there is no doubt instead of using the word "First Floor" the word "Up Floor" has been


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used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further expanded to include the dweller living on the second & third floors. Furthermore, the words "Upper Floor" cannot be interpreted to be used in plural as "Upper Floors" by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -

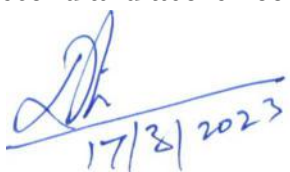
"13. Gender and number:- In all Central Acts and Regulations unless there is anything repugnant in the subject or context,-

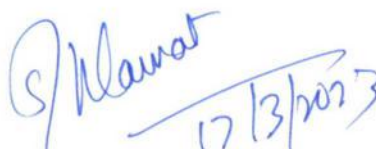
- (1) words importing the masculine gender shall also be taken to include females; and*
- (2) words in the singular shall include the plural, and vice versa.*

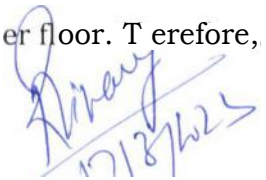
22. The bare perusal of Part-B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

23. Thus we have no hesitation in holding that the words *"Upper Floor"* used in the DDA policy without confusion connotes and includes only the "First Floor" of the Jhuggi. Thus the "Second Floor" & "Third Floor" of the Jhuggi are not included in the definition of the words *"Upper Floor"* used in the policy. In simple terms the word "Upper Floor" only connotes the "First Floor" of the Jhuggi and it does not include the "Second Floor" & "Third Floor" of the Jhuggi.

In view of the matter the words "upper floor" used in Part-B Para 10 of the DDA policy only denotes first floor and not all the floors above the first floor meaning thereby that the second and above floors are not included in the definition of upper floor. Therefore,


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uwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

24. Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015.

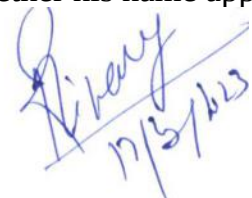
GIST OF THE POLICY

25. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

26. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further whether the Appellant/Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears

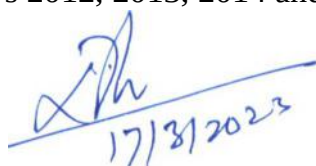

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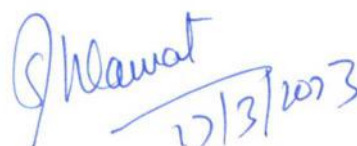

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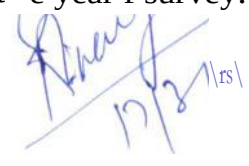

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in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

27. At the very outset it is pointed out that as per our discussion in detail above, we have held that the second floor is not covered under the definition of "Upper Floor" under the policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she has claimed allotment against the second floor, which is not included in the definition of upper floor under Part-B Para 10 of the policy.
28. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.
29. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1464534 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2012 (Annexure-M), Voter List of the year 2013 (Annexure-N), Voter List of the year 2014 (Annexure-O), Voter List of the year 2015 (Annexure-P) and the Voter List of the year 2019 (Annexure-Q).
30. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1464534 (Annexure-A), which has been issued on 07.11.2011, much prior to the cutoff date of 01.01.2015. It is pointed out that the name of the Appellant/Claimant appears at SI. No. 998 in the Voter List of the year 2012 (Annexure-M), at SI. No. 998 in the Voter List of the year 2013 (Annexure-N), at SI. No. 1076 in the Voter List of the year 2014 (Annexure-O), at SI. No. 1109 in the Voter List of the year 2015 (Annexure-P) and at SI. No. 1114 in the Voter List of the year 2019 (Annexure-Q). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.


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31.The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. B-634 regarding which he has claimed allotment from DDA. The Appellant/Claimant has tendered two joint Ration Cards (Annexure-F & Annexure-G). The old Ration Card (Annexure-F) has been issued on 22.06.2002 in the name of his father, Amar Sarkar, and the names of the family members have been mentioned but the name of the Appellant/Claimant is not mentioned. The new Ration Card (Annexure-G) has been issued in the name of his mother Ambika and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned but the date of issuance has not been mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the second floor of Jhuggi bearing No. B-634 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

32.The Appellant/ Claimant has also tendered his Driving License (Annexure-D), Electricity Bill (Annexure-E), Pass Book of PNB (Annexure-H), as well as the Voter ID Card bearing number ARE 2556258 (Annexure-I), Aadhar Card (Annexure-J) & Pan Card (Annexure-K) of his wife Neha. The Driving License (Annexure-D) has been issued on 04.08.2011. The Electricity Bill (Annexure-F) shows that the electricity connection has been taken by his father Amar on 13.05.2008 on his ground floor Jhuggi No. B-634. But the fact remains that the Appellant/Claimant was not having electricity connection on the address of second floor of the Jhuggi No. B-634 regarding which he is claiming allotment from DDA. The Pass Book of PNB (Annexure-H) shows that the Appellant/Claimant has opened the account on 28.06.2018. The Voter ID Card bearing number ARE 2556258 (Annexure-I) has been issued on 23.09.2021, much after the cutoff date of 01.01.2015. It is pertinent to point out that the documents, Annexure-D, Annexure-E and Annexure-H to Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above he was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

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33. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part-B Para 10 of the policy. The documents, Annexure-A to Annexure-Q, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. B-634 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part-B Para 10 of the policy and further he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of upper floor of Jhuggi No. B-634 regarding which he has claimed allotment from DDA. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

34. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/44/40.2/1083 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

35. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due complia


(Ran Singh) ⁴¹


(Satish Ahlawat)


(Rachna Tiwary)

it. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

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BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 223 of 2023

Date of Institution: 23.11.2022

Date of Order: 17.03.2023

Present: Appellant/ Claimant Ram Iqbal Paswan S/o Ram Sewak @ Rasewal Paswan

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-80, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of 11 Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-80 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim

of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/66/18.1.G/1463 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No.223 of 2023 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 15.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-80 was found to exist on the upper floor but he had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

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7. The statement of the Appellant/ Claimant, Ram Iqbal Paswan, has been recorded before us on 15.03.2023, wherein he has stated that his parents, Ram Sewak @ Rase Wal Paswan & Poonam, are having three sons, namely, Guddu, Vishal & Ram Iqbal (Appellant/Claimant). Guddu and Vishal are unmarried. Ram Iqbal is married with Santa and having one son, Kunal.
8. The Appellant/ Claimant has stated that his family is having a double storey Jhuggi No. B-80. His parents, Ram Sewak @ Rase Wal Paswan & Poonam along with their unmarried sons, Guddu & Vishal, are living on the ground floor of the said Jhuggi No. B-80 and regarding that DDA has made allotment in favour of his mother Poonam. These facts are not disputed by DDA.
9. The Appellant/ Claimant has also stated that he along with his wife, Santa & son, Kunal, is living on the first floor of the said Jhuggi No. B-80. The Appellant/ Claimant has sought allotment from DDA. But his claim has been rejected by DDA and aggrieved by the same he has filed Appeal No. 223 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-J, and prayed that DDA be directed to make allotment in her favour.
10. DDA has furnished the survey records along with 6 video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 15.03.2023 wherein he has stated that in six video clips his mother Poonam is seen in her Jhuggi on the ground floor. Her room and kitchen is also seen in theses videos. Further an iron ladder is seen going from outside the ground floor to the upper floor. But there is no video clip of the first floor against which the Appellant/Claimant has sought allotment from DDA. The Appellant/Claimant has stated that he had made efforts to get the videography of his floor done but the survey team had refused. However, the Appellant/Claimant has not made any complaint to the higher DDA Authorities regarding videography of his floor not been conducted by the survey team of DDA. It is pointed out that DDA has placed on file the photographs of the Jhuggi of the Appellant/Claimant on the first floor taken by the survey team. Thus merely not conducting of videography is of no consequence. There is nothing to disbelieve the statement of then Appellant/Claimant that Jhuggi no. B-80 is a double storey structure. Thus the statement of the Appellant/Claimant as w as the survey


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records/video clips has duly proved that the double storey pucca Jhuggi No. B-80 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.

11. Accordingly, we have no hesitation in holding that the Jhuggi No. B-80 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant & his family has been using the first floor of the said Jhuggi for residential purposes.
12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
13. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.
14. It is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate .1.1 dwellers oft' Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card but having a joint Ration Card issued in the name of his mother, Poonam. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.0 . 015. ccordingly,


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there is no illegality in the impugned rejection order bearing No. 385/66/18.1.G/1463 dated 07.11.2022.

15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible 1.1 dwellers will be removed from the .1.1 cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

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- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor)AS PERDDA POLICY

16. As per Part—B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17. As already pointed out above, condition contained in Part—B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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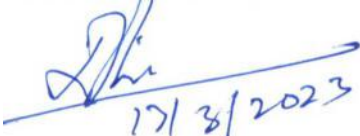
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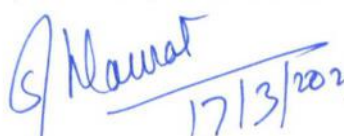
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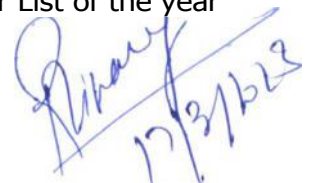
18. Thus Part—B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

19. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
20. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
21. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1144831 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2015 (An exure-1) and Voter List of the year 2019 (Annexure-J).


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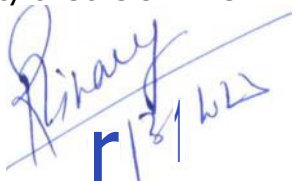
22. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1144831 (Annexure-A), which has been issued on 27.10.2008, much prior to the cutoff date of 01.01.2015. It is pointed out that the name of the Appellant/Claimant appears at SI. No. 206 in the Voter List of the year 2015 (Annexure-I) and at SI. No. 202 in the Voter List of the year 2019 (Annexure-J). Therefore, we have no hesitation in holding that the Appellant/Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
23. The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. B-80 regarding which he has claimed allotment from DDA. The Appellant/Claimant has tendered his joint Ration Card (Annexure-H), which has been issued in the name of his mother Poonam and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. However, the date of issuance is not mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor of Jhuggi bearing No. B-80 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.
24. The Appellant/ Claimant has also tendered the Voter ID Card bearing number ARE 1924405 (Annexure-D) & Aadhar Card (Annexure-E) of his wife Santa as well as his Pass Book of SBI (Annexure-F) and Electricity Bill (Annexure-G). The Voter ID Card bearing number 1924405 (Annexure-D) has been issued on 25.03.2014, much before the cutoff date of 01.01.2015. The Pass Book of SBI (Annexure-F) shows that the Appellant/Claimant has opened the account on 16.03.2020. The Electricity Bill (Annexure-G) shows that the electricity connection has been taken by his father, Ram Sewak, on 02.07.2008 on his ground floor Jhuggi No. B-80. It is pertinent to point out that the documents, Annexure-D to Annexure-G, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our

discussion above he was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

25. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he has claimed allotment against the first floor. The documents, Annexure-A to Annexure-J are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. B-80 regarding which he has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.
26. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/66/18.1.G/1463 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.
27. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh)

(Sati h Ahlawat)

 1/31/22
(Rachna Tiwary)

Jt. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BE JRE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF Ji DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 259 of 2022

Date of Institution: 24.11.2022

Date of Order: 17.03.2023

Present: Appellant/ Claimant Janmanjay Samanta Sb o Jawahar Lal Samanta

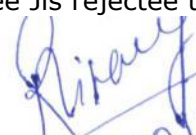
Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. D-113, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of 11 Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to 1.1 Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-113 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim


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of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/66/91.G/1497 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No.259 of 2022 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 13.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-113 was found to exist on the ground floor but he had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.


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The statement of the Appellant/ Claimant, Janamanjay, is recorded before us on 13.03.2023, wherein he has stated that his parents, Jawahar & Durga are living in West Bengal and are having four sons, namely, Jagan Nath, Jai Dev, Jotimaya & Janamanjay (Appellant/ Claimant) and two daughters, namely, Ashtami & Laxmi. All the children are married. Ashtami and Laxmi are living in their respective matrimonial homes in West Bengal whereas Jotimaya is married and he is also living with his family in West Bengal. Jagan Nath is married with Rupali. Jai Dev is married with Sangita. Janmanjay is married with Anima and having one daughter, namely, Jaya Rani.

8. The Appellant/ Claimant has also stated that his brother Jagan Nath along with his wife, Rupali is living in Jhuggi No. D-49, Bhoomiheen Camp and regarding that DDA has made allotment in favour of Rupali. Whereas his brother Jaidev is living on rent somewhere in Bhoomiheen Camp. These facts are not disputed by DDA.
9. The Appellant/ Claimant has stated that his family is having a double storey Jhuggi No. D-113. His brother in-law, Samir S/o Vibhuti Haldar, is living on the first floor of Jhuggi No. D-113 but he has neither applied for allotment nor had got conducted the survey of his Jhuggi on the first floor.
10. The Appellant/ Claimant has stated that he along with his wife, Anima, and daughter, Jaya Rani, is living on the ground floor of the said Jhuggi No. D-113. The Appellant/ Claimant has sought allotment from DDA against the said Jhuggi. But his claim has been rejected by EDC. Aggrieved by the same he has filed the present Appeal No. 259 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-I, and prayed that DDA be directed to make allotment in his favour.
11. DDA has furnished the survey records along with 2 video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 13.03.2023 wherein he has stated that in the video clips he is seen standing inside his ground floor room. Further his room and kitchen are also seen in theses videos. The survey team did not make the video of first floor because as per the statement of the Appellant/Claimant his brother in-law, Samir S/o Vibhuti Haldar, is living on the first floor of Jhuggi No. D-113 but

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he has neither applied for allotment nor had got conducted the survey of his Jhuggi on the first floor. But there is nothing to disbelieve the statement of the Appellant/Claimant to the effect that Jhuggi No. D-113 is a double storey structure. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey pucca Jhuggi No. 0-113 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the ground floor of the said Jhuggi for residential purposes.

12. Accordingly, we have no hesitation in holding that the Jhuggi No. D-113 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant has been using the ground floor of the said Jhuggi for residential purposes.
13. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
14. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-I, in support of his claim and prayed that DDA be directed to make allotment in his favour.
15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and 11 Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Pa rt-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residingjn the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.

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3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible ii dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.

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- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

16. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
17. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
18. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 2526036 (Annexure-A), Aadhar Card (Annexure-B) and Pan Card (Annexure-C).
19. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 2526036 (Annexure-A), which has been issued on 26.09.2020, much after the cutoff date of 01.01.2015. Accordingly the question of his name appearing in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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A. The Appellant/ Claimant has also tendered his e-Shram Card (Annexure-D) as well as the Voter ID Card bearing number ARE 2237428 (Annexure-E), Aadhar Card (Annexure-F) & Pan Card (Annexure-G) of his wife Anima and the Electricity Bill (Annexure-H) and Ration Card (Annexure-I).

21. It is pointed out that the Voter ID Card bearing number ARE 2237428 (Annexure-E) has been issued on 16.03.2019, much after the cutoff date of 01.01.2015. Thus the material placed on file shows that neither the Appellant/Claimant nor his wife were having Voter ID Card on the cut off date of 01.01.2015 and further their names also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

The Electricity Bill (Annexure-H) shows that the electricity connection has been taken by the Appellant/ Claimant on 24.03.2017, much after the cutoff date of 01.01.2015. The Ration Card (Annexure-I) has been issued on 26.12.2014 in the name of Anima W/o Janamanjay, Appellant/Claimant.

It is pointed out that the documents, Annexure-D to Annexure-I, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents, Annexure-A to Annexure-I, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore,

Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

23. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/66/91.G/1497 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

24. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Satish hlawat)

(Rachna Tiwary

it. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

**BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE
GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ
DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.**

Appeal No: 242 of 2023

Date of Institution: 23.11.2022

Date of Order: 20.03.2023

Present: Appellant/ Claimant Rambir Sbo Makhan Singh

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-45, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-45 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim

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of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/7/165.1/1669 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 242 of 2023 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 15.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-P, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-45 was found to exist on the upper floor but she had failed to submit required documents, i.e., a separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee (EDC) has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/ Claimant, Rambir, has been recorded before us on 15.03.2023, wherein he has stated that parents, Makhan Singh & Dhan Devi, are having two sons, namely, Jagpal & Rambir (Appellant/ Claimant) and two daughters, namely, Santosh & Pinki. All the children are married. Jagpal is married with Naina and having one daughter, Nitya. Rambir is married with Santosh and having three children. Santosh is living in her matrimonial home in Sangam Vihar. Pinki is a divorcee and she is living with her parents in Bhoomiheen Camp.
8. The Appellant/ Claimant has stated that his family is having a triple storey Jhuggi No. B-45. His parents, Makhan Singh & Dhan Dev, along with their daughter Pinki, are living on the ground floor of the said Jhuggi No. B-45 and regarding that DDA has made allotment in favour of his mother, Dhan Devi. These facts are not disputed by DDA.
9. The Appellant/ Claimant has stated that his brother Jagpal along with his wife, Naina, & children, is living on the second floor of the said Jhuggi No. 8-45. Naina has sought allotment from DDA against the second floor but her claim has been rejected by EDC and aggrieved by the same he has filed the Appeal No. 243 of 2023 before the Appellate Authority for redressal.
10. The Appellant/ Claimant has further stated that he along with his wife Santosh & three children, is living on the first floor of the said Jhuggi No. B-45. The Appellant/ Claimant has sought allotment from DDA. But his claim has been rejected by EDC and aggrieved by the same he has filed the present Appeal No. 242 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-P, and prayed that DDA be directed to make allotment in his favour.
11. It is pointed out that the Appeal No. 242 of 2023 and Appeal No. 243 of 2023 shall be decided separately on their respective merits.
12. DDA has furnished the survey records along with 19 video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 15.03.2023 wherein he has stated that in the 5 video clips of ground floor his mother Dhan Devi is seen in her Jhuggi on the ground floor. Further in the next 6 • eo cli4 he (Rambir-

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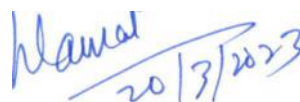
Appellant/Claimant) is seen. In the next 8 video clips Naina is seen in her Jhuggi on the second floor. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. B-45 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for his residential purposes.

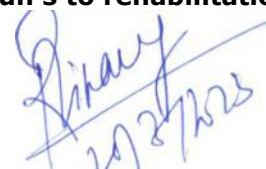
13. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
14. It is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate II dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card but he is having a joint ration card with his mother, Dhan Devi. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/7/165.1/1669 dated 07.11.2022.
15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-


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1. The II dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the .1.1 dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the II dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the .1.1 dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the II cluster at the time of its rehabilitation /relocation/clearance of ii Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.

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- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

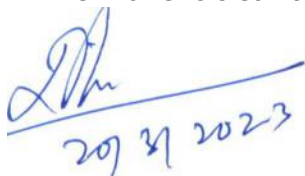
16. As per Part—B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

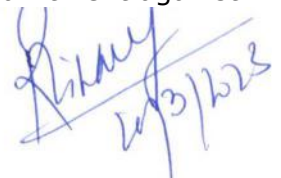
17. As already pointed out above, condition contained in Part—B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18. Thus Part—B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming aA.tment against


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ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

19. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

20.1n the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

21. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

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22. The Appellant/Claimant has tendered his two Voter ID Cards bearing No. ARE 1143650 (Annexure-A) & ARE 2497832 (Annexure-B), Aadhar Card (Annexure-C), Pan Card (Annexure-D), Voter List for the year 2012 (Annexure-L), Voter List for the year 2013 (Annexure-M), Voter List for the year 2014 (Annexure-N), Voter List for the year 2015 (Annexure-O) and Voter List for the year 2019 (Annexure-P).
23. It is pointed out that the first Voter ID Card bearing No. ARE 1143650 (Annexure-A) has been issued on 27.10.2008, much prior to the cutoff date of 01.01.2015 and the second Voter ID Card No. ARE 2497832 (Annexure-B) has been issued on 29.01.2020, much after to the cutoff date of 01.01.2015. The Appellant/Claimant has failed to explain the justification of his having two Voter ID Cards bearing No. ARE 1143650 (Annexure-A) & ARE 2497832 (Annexure-B) on the same address, i.e., B-45, Bhoomiheen Camp. It is pointed out that the name of the Appellant/Claimant appears at SI. No. 161 in the Voter List for the year 2012 (Annexure-L), at SI. 161 in the Voter List for the year 2013 (Annexure-M), at SI. 113 in the Voter List for the year 2014 (Annexure-N), at SI. 117 in the Voter List for the year 2015 (Annexure-O) and at SI. No. 119 in the Voter List for the year 2019 (Annexure-P). It is pointed out that in all these Voter Lists, Annexure- L to Annexure-P, the Voter ID Cards are given to be bearing number ARE 1143650. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. It is pertinent to point out that the Appellant/Claimant has failed to explain as to the reasons of getting two Voter ID Cards bearing No. ARE 1143650 (Annexure-A) & ARE 2497832 (Annexure-B) issued in his favour and this creates doubt & suspicion.
24. The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the second floor bearing No. B-45 regarding which he has claimed allotment from DDA. The Appellant/Claimant has tendered his joint Ration Card (Annexure-K), which has been issued on 27.11.2014 in the name of his mother Dhan Devi and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of

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01.01.2015 on the address of his Jhuggi on the second floor bearing No. B-45 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

25. The Appellant/Claimant has tendered the Voter ID Card bearing No. ARE 1143668 (Annexure-E), Aadhar Card (Annexure-F), Pan Card (Annexure-G) & Pass Book of PNB (Annexure-I) of his wife Santosh as well as his Pass Book of PNB (Annexure-H) and the Electricity Bill (Annexure-J).

26. It is pointed out that the Voter ID Card bearing No. ARE 1143668 (Annexure-E) has been issued on 27.10.2008, much prior to the cutoff date of 01.01.2015. The Pass Book of PNB (Annexure-I) shows that the account was opened by Santosh on 25.12.2021. The Pass Book of PNB (Annexure-H) shows that the account was opened by the Appellant/Claimant on 25.12.2021. The Electricity Bill (Annexure-J) shows that the connection was taken by his wife Santosh on 25.07.2017. The documents, Annexure-E to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015, which is mandatory document for the upper floor.

27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he has claimed allotment against the first floor. The documents, Annexure-A to Annexure-P, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. B-45 regarding which he has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

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28. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/7/165.1/1669 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

29. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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Rachna Tiwary
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(Rachna Tiwary)

Jt. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

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BEFCME APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 243 of 2023

Date of Institution: 23.11.2022

Date of Order: 20.03.2023

Present: Appellant/ Claimant Naina W/o Jagpal D/o Phool Pal

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

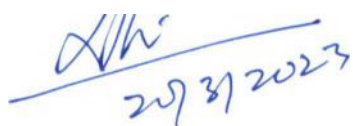
1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. B-45, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-45 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer,

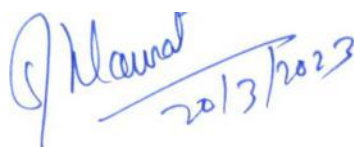

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Bhoomiheen Camp, duly communicated its order bearing No. 385/7/166.2/1670 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 243 of 2023 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 18.01.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-45 was found to exist on the upper floor but she had failed to submit required documents, i.e., a separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee (EDC) has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.


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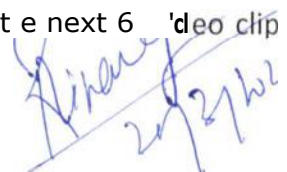

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7. The statement of the Appellant/ Claimant, Naina, has been recorded before us on 05.01.2023, wherein she has stated that her in-laws, Makhan Singh & Dhan Devi, are having two sons, namely, Jagpal & Rambir and two daughters, namely, Santosh & Pinki. All the children are married. Rambir is married with Santosh and having three children. Santosh is living in her matrimonial home in Sangam Vihar. Pinki is divorcee and she is living with her parents in Bhoomiheen Camp. Jagpal is married with Naina (Appellant/ Claimant) and having one daughter, Nitya.
8. The Appellant/ Claimant has stated that her family is having a triple storey Jhuggi No. B-45. Her in-laws, Makhan Singh & Dhan Dev, along with their daughter Pinki, are living on the ground floor of the said Jhuggi No. B-45 and regarding that DDA has made allotment in favour of her mother-in-law, Dahan Devi. These facts are not disputed by DDA.
9. The Appellant/ Claimant has stated that Rambir along with his family is living on the first floor of the said Jhuggi No. B-45. Rambir has sought allotment from DDA against the first floor but his claim has been rejected by EDC and aggrieved by the same he has filed the t Appeal No. 242 of 2023 before the Appellate Authority for redressal.
10. The Appellant/ Claimant has further stated that she along with her husband Jagpal & daughter Nitya, is living on the second floor of the said Jhuggi No. B-45. The Appellant/ Claimant has sought allotment from DDA. But her claim has been rejected by EDC and aggrieved by the same he has filed the present Appeal No. 243 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-L, and prayed that DDA be directed to make allotment in his favour.
- 11.1t** is pointed out that the Appeal No. 242 of 2023 and Appeal No. 243 of 2023 shall be decided separately on their respective merits.
- 12.** DDA has furnished the survey records along with 19 video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 05.01.2023 wherein she has stated that in the 5 video clips of ground floor her mother- in — law Dhan evi is seen in her Jhuggi on the ground floor. Further in t e next 6 'deo clip



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Rambir is seen in his Jhuggi on the first floor. In the next 8 video clips she (Naina-Appellant/Claimant) is seen in her Jhuggi on the second floor. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. B-45 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the second floor of the said Jhuggi for her residential purposes.

13. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.

14. It is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of II Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she has claimed allotment against the second floor, which is not included in the definition of upper floor and further she was not having a


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separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/7/166.2/1670 dated 07.11.2022.

15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

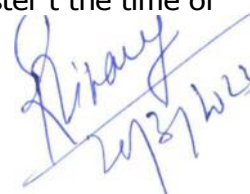
"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate 11 dwellers would be as under :-

1. The ii dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the .1.1 dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the 11 dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The II dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi is being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible 11 dwellers will be removed from the 11 cluster t the time of its rehabilitation /relocation/clearance of JJ Basti.


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As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

16. As per Part—B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17. It is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were

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living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part—B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18. It is pointed out that in the policy the words *"First Floor or Second Floor or Third Floor"* are intentionally not used but the word *"Upper Floor"* is used. So in the cases where the Jhuggi is double storey there is no confusion because the *"First Floor"* of that Jhuggi without confusion is covered under the definition of *"Upper Floor"*. But in the cases where the Jhuggi is constructed more than double storey, then dispute arises with respect to the definition of *"Upper Floor"*. The moot question involved is whether the dwellers living on the second floor or third floor, akin to the dweller living on the first floor, shall also be entitled for alternative allotment if they possess requisite documents or not. In simple terms whether the word *"Upper Floor"* only connotes the *"First Floor"* or it also includes *"Second Floor"* & *"Third Floor"* of the Jhuggi.

19. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card and there is no doubt instead of using the word *"First Floor"* the word *"Upper Floor"* has been used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further expanded to include the dweller living on the second & third floors. Furthermore, the words *"Upper Floor"* cannot be interpreted to be used in plural as *"Upper Floors"* by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -

"13. Gender and number:- In all Central Acts and Regulations unless there is anything repugnant in the subject or context,-

- (1) words importing the masculine gender shall also be taken to include females; and*
- (2) words in the singular shall include the plural, and vice versa.*

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20. The bare perusal of Part—B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

21. Thus we have no hesitation in holding that the words "*Upper Floor*" used in the DDA policy without confusion connotes and includes only the "First Floor" of the Jhuggi. Thus the "Second Floor" & "Third Floor" of the Jhuggi are not included in the definition of the words "*Upper Floor*" used in the policy. In simple terms the word "Upper Floor" only connotes the "First Floor" of the Jhuggi and it does not include the "Second Floor" & "Third Floor" of the Jhuggi.

In view of the matter the words "upper floor" used in Part—B Para 10 of the DDA policy only denotes first floor and not all the floors above the first floor meaning thereby that the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

22. Thus Part—B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against ~~upper~~ (Firs loor) is

not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

23. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the II dwellers must be a citizen of India and not less than 18 years of age and further also that the name of .1.1 dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

24. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further whether the Appellant/Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

25. It is pointed out that as per our discussion in detail above, we have held that the second floor is not covered under the definition of "Upper Floor" under the policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she has claimed allotment against the second floor, which is not included in the definition of upper floor under Part—B Para 10 of the policy.

26. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card on t


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cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

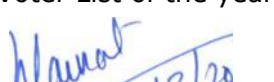
27. The Appellant/Claimant has tendered her Voter ID Card bearing No. ARE 2497816 (Annexure-A), Aadhar Card (Annexure-B), Pan Card Annexure-C).

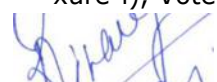
28. It is pointed out that the Voter ID Card bearing No. 2497816 (Annexure-A) has been issued on 29.01.2020, much after to the cutoff date of 01.01.2015 and accordingly the question of her name appearing in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

29. The Appellant/Claimant has admitted that she is not having a separate Ration Card issued on the address of Jhuggi on the second floor bearing No. B-45 regarding which she has claimed allotment from DDA. The Appellant/Claimant has tendered her joint Ration Cards (Annexure-F & Annexure-G), which has been issued in the name of her mother-in-law Dhan Devi. Both the joint Ration Cards (Annexure-F & Annexure-G) are bearing same number 077002171908. But in the first ration card (Annexure-F) the date of issuance is not mentioned and the name of the Appellant/Claimant is also not mentioned. The second joint Ration Cards (Annexure-G) has been issued on 27.11.2014 and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the second floor bearing No. B-45 regarding which she is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

30. The Appellant/Claimant has tendered the Voter ID Card bearing No. ARE 1143676 (Annexure-D), Aadhar Card (Annexure-E), Voter List of the year 2015 (Annexure-I), Vote


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List of the year 2019 (Annexure-J) & Pass Book of PNB (Annexure-L) of her husband Jagpal as well as her Pass Book of PNB (Annexure-H) and the Electricity Bill (Annexure-K).

31. It is pointed out that the Voter ID Card bearing No. ARE 1143676 (Annexure-D) has been issued on 27.10.2008, much prior to the cutoff date of 01.01.2015 and his name appears at SI. No. 118 in the Voter List of the year 2015 (Annexure-I) and at SI. No. 129 in the Voter List of the year 2019 (Annexure-J). The Pass Book of PNB (Annexure-H) shows that the account was opened by the Appellant/Claimant on 01.05.2019. The Pass Book of PNB (Annexure-L) shows that the account was opened by Jagpal on 05.11.2014. The Electricity Bill (Annexure-K) shows that the connection was taken by her sister-in-law, Santosh, on 25.07.2017. The documents, Annexure-D, Annexure-E and Annexure-H to Annexure-L, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015, which is mandatory document for the upper floor and further the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

32. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and she has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part—B Para 10 of the policy. The documents, Annexure-A to Annexure-L, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. B-45 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part—B Para 10 of the policy and further she was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 and further the Appellant/ Claimant was also not having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, she does not fill the Eligibility criteria as per the guidelines issued by DDA.

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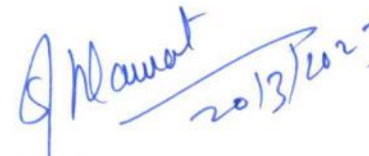
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33. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/7/166.2/1670 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.
34. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Satish Ahlawat  20/11/2023)

(Rachna Tiwary  20/11/2023)

Jt. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BI...-ORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 288 of 2023

Date of Institution: 25.11.2022

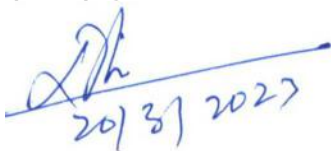
Date of Order: 20.03.2023

Present: Appellant/ Claimant Tompa Mandal W/o Sanjeev Mandal D/o Bimal Ray

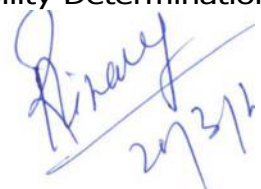
Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. B-116, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of 11 Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-116 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination


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Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/61/45.1/1284 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 288 of 2023 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 16.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-45 was found to exist on the upper floor but she had failed to submit required documents, i.e., a separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee (EDC) has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

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7. The statement of the Appellant/ Claimant, Tompa, has been recorded before us on 16.03.2023, wherein she has stated that her in-laws, Sandhya & Niranjan, are having three sons, namely, Dilip, Sanjeev and Pradeep and two daughters, namely, Sujata & Poornima. All the children are married. Both the daughters, Sujata & Poonima are living in their respective matrimonial homes in Faridabad and Nainital. Dilip is married with Manju and having two daughters, Kavya & Saadhya and they are living in Ghaziabad. Pradeep is married with Sapna and having one daughter, Arpita. Sanjeev is married with Tompa (Appellant/Claimant) and having two sons, Paarthav and Arnav.
8. The Appellant/ Claimant has stated that her family is having a triple storey Jhuggi No. B-116 and it comprised of one room on each floor and having a pucca staircase for going to the upper floors. Her in-laws, Niranjan & Sandhya are living on the ground floor of the said Jhuggi No. B-116 and regarding that DDA has made allotment in favour of her mother-in-law, Sandhya. These facts are not disputed by DDA.
9. The Appellant/ Claimant has stated that Pradip along with his wife Sapna & daughter is living on the first floor of the said Jhuggi No. B-116. Sapna has sought allotment from DDA against the second floor but her claim has been rejected by EDC and aggrieved by the same she has filed the Appeal No. 410 of 2023 before the Appellate Authority for redressal.
10. The Appellant/ Claimant has further stated that she along with her husband Sanjeev & both the sons, Paarthav and Arnav, is living on the first floor of the said Jhuggi No. B-116. The Appellant/ Claimant has sought allotment from DDA. But her claim has been rejected by EDC and aggrieved by the same she has filed the present Appeal No. 288 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-L, and prayed that DDA be directed to make allotment in her favour.
11. It is pointed out that the Appeal No. 288 of 2023 and Appeal No. 410 of 2023 shall be decided separately on their respective merits.


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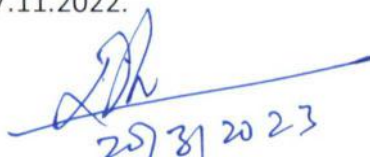

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_2. DDA has furnished the survey records along with 22 video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 16.03.2023 wherein she has stated that in the 7 video clips of ground floor her mother- in — law, Sandhya, is seen in her Jhuggi on the ground floor and a room and kitchen are also seen. Further in the next 7 video clips she (Tomba-Appellant/Claimant) is seen on the first floor and her room and kitchen are also seen. In the next 8 video clips Sapna is seen in her Jhuggi on the second floor and a room and kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. B-116 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for her residential purposes.

13. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

14. It is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate 1.1 dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card but she is having a joint ration card with her mother-in- law Sandhya. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/61/45.1/1284 dated 07.11.2022.


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- 5. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and 11 Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the 11 dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of ii dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the 11 dwellers must appear in the survey conducted by LM Department.
5. The 11 dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the 11 dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The 11 dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible .11 dwellers will be removed from the 11 cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the Ji dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill

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- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/[i] dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

16. As per Part—B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17. As already pointed out above, condition contained in Part—B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18. Thus Part—B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming al o ment against

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ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

19. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of 11 dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

20.1n the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

21. The Appellant/Claimant has tendered her Voter ID Card bearing No. ARE 1756583 (Annexure-A), Aadhar Card (Annexure-B), Pan Card Annexure-C), Voter Lists of the year 2014 (Annexure-I) and Voter List of the year 2109 (Annexure-J).

22. It is pointed out that the Voter ID Card bearing No. ARE 1756583 (Annexure-A) has been issued on 10.09.2013, much prior to the cutoff date of 01.01.2015. Her name also appears at SI. No. 86 in the Voter List of the year 2014 (Annexure-I) and at SI. No. 157 in the Voter List of the year 2109 (Annexure-1). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and er/

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name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23. The Appellant/Claimant has admitted that she is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. B-116 regarding which she has claimed allotment from DDA. The Appellant/Claimant has tendered her two joint Ration Cards (Annexure-K & Annexure-L). The old Ration Card (Annexure-K) has been issued in the name of her father-in-law, Niranjana, on 22.06.2002 whereas the New Ration Card (Annexure-L) has been issued in the name of her mother-in-law, Sandhya but the date of issuance is not mentioned. It is pointed out that in both the Ration Cards (Annexure-K & Annexure-L) the names of the family members, including the name of the husband of the present Appellant/Claimant, have been mentioned but the name of the Appellant/Claimant is not mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor bearing No. B-116 regarding which she is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.
24. The Appellant/Claimant has tendered two Voter ID Cards bearing No. CXY 1110014 (Annexure-D & Annexure-D/1), Aadhar Card (Annexure-E) & Pan Card (Annexure-F) of her husband Sanjeev as well as the Electricity Bill (Annexure-G) and her Pass Book of PNB (Annexure-H).
25. It is pointed out that both the Voter ID Card Voter ID Cards (Annexure-D & Annexure-D/1) are bearing the same number, i.e., CXY 1110014. The first (Annexure-D) has been issued on 21.03.2002, much prior to the cutoff date of 01.01.2015 and the second (Annexure-D/1) has been issued on 13.12.2021. The Electricity Bill (Annexure-G) shows that the connection was taken by her father-in-law, Niranjana, on 17.05.2008. The Pass Book of PNB (Annexure-H) shows that the account was opened by the Appellant/Claimant on 21.02.2019. The documents, Annexure-D, Annexure-D/1 and Annexure-E to Annexure-H, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our dis

Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015, which is mandatory document for the upper floor.

26. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he has claimed allotment against the first floor. The documents, Annexure-A to Annexure-L, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. B-116 regarding which she has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.
27. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/61/45.1/1284 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.
28. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

(Rajendra Singh) - 1 7/0;

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(Sati Ahlawat)

(Rachna Tiwary)

it. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 410 of 2023

Date of Institution: 29.11.2022

Date of Order: 20.03.2023

Present: Appellant/ Claimant Sapna Mandal W/o Pradeep Mandal D/o Jagdish Biswas

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. B-116, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of ii Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to II Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-116 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination


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Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/61/45.2/1285 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 410 of 2023 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 16.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-45 was found to exist on the upper floor but she had failed to submit required documents, i.e., a separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee (EDC) has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim lotment against second floor as per the policy guidelines issued by DDA.

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7. The statement of the Appellant/ Claimant, Sapna, has been recorded before us on 16.03.2023, wherein she has stated that her in-laws, Sandhya & Niranjana, are having three sons, namely, Dilip, Sanjeev and Pradeep and two daughters, namely, Sujata & Poornima. All the children are married. Both the daughters, Sajata & Poonima are living in their respective matrimonial homes in Faridabad and Nainital. Dilip Is married with Manju and having two daughters, Kavya and Saadhya and they are living in Ghaziabad. Sanjeev is married with Tumpa and having two sons, Paarthav and Arnav. Pradeep is married with Sapna (Appellant/ Claimant) and having one daughter, Arpita.
8. The Appellant/ Claimant has stated that her family is having a triple storey Jhuggi No. B-116 and it comprised of one room on each floor and having a pucca staircase for going to the upper floors. Her in-laws, Niranjana and Sandhya, are living on the ground floor of the said Jhuggi No. B-116 and regarding that DDA has made allotment in favour of her mother-in-law, Sandhya. These facts are not disputed by DDA.
9. The Appellant/ Claimant has stated that Sanjeev along with his wife Tumpa and both the children is living on the first floor of the said Jhuggi No. B-116. Tumpa has sought allotment from DDA against the first floor but her claim has been rejected by EDC and aggrieved by the same she has filed the Appeal No. 288 of 2023 before the Appellate Authority for redressal.
10. The Appellant/ Claimant has further stated that she along with her husband Sanjeev & both the children is living on the second floor of the said Jhuggi No. B-116. The Appellant/ Claimant has sought allotment from DDA. But her claim has been rejected by EDC and aggrieved by the same she has filed the present Appeal No. 410 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-M, and prayed that DDA be directed to make allotment in her favour.
11. It is pointed out that the Appeal No. 288 of 2023 and Appeal No. 410 of 2023 shall be decided separately on their respective merits.

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...2. DDA has furnished the survey records along with 22 video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 16.03.2023 wherein she has stated that in the 7 video clips of ground floor her mother- in — law, Sandhya, is seen in her Jhuggi on the ground floor and a room and kitchen are also seen. Further in the next 7 video clips Tumpa is seen on the first floor and her room and kitchen are also seen. In the next 8 video clips she (Sapna- Appellant/Claimant) is seen in her Jhuggi on the second floor and a room and kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. B-116 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the second floor of the said Jhuggi for her residential purposes.

13. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.

14. It is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of 1.1 Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

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It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she has claimed allotment against the second floor, which is not included in the definition of upper floor and further she was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/61/45.2/1285 dated 07.11.2022.

15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi is being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.

10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of .1.1 Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

16. As per Part—B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

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JWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17.1t is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part—B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18. It is pointed out that in the policy the words *"First Floor or Second Floor or Third Floor"* are intentionally not used but the word *"Upper Floor"* is used. So in the cases where the Jhuggi is double storey there is no confusion because the "First Floor" of that Jhuggi without confusion is covered under the definition of *"Upper Floor"*. But in the cases where the Jhuggi is constructed more than double storey, then dispute arises with respect to the definition of *"Upper Floor"*. The moot question involved is whether the dwellers living on the second floor or third floor, akin to the dweller living on the first floor, shall also be entitled for alternative allotment if they possess requisite documents or not. In simple terms whether the word "Upper Floor" only connotes the "First Floor" or it also includes "Second Floor" & "Third Floor" of the Jhuggi.

19. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card and there is no doubt instead of using the word "First Floor" the word "Upper Floor" has been used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further expanded to include the dweller living on the second & third floors. Furthermore, the words "Upper Floor" cannot be interpreted to be used in plural as "Upper Floors" by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -

"13. Gender and number:- In all Central Acts and Regulations unless there is anything repugnant in the subject or context,-

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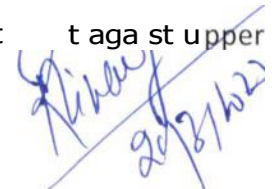
- (1) words importing the masculine gender shall also be taken to include females; and
 (2) words in the singular shall include the plural, and vice versa.

20. The bare perusal of Part—B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitle for alternative allotment.

21. Thus we have no hesitation in holding that the words "*Upper Floor*" used in the DDA policy without confusion connotes and includes only the "First Floor" of the Jhuggi. Thus the "Second Floor" & "Third Floor" of the Jhuggi are not included in the definition of the words "*Upper Floor*" used in the policy. In simple terms the word "Upper Floor" only connotes the "First Floor" of the Jhuggi and it does not include the "Second Floor" & "Third Floor" of the Jhuggi.

In view of the matter the words "upper floor" used in Part—B Para 10 of the DDA policy only denotes first floor and not all the floors above the first floor meaning thereby that the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

22. Thus Part—B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allot

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floor (First Floor). This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

- 23.** The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the 1.1 dwellers must be a citizen of India and not less than 18 years of age and further also that the name of 11 dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
- 24.1n** the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further whether the Appellant/Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
- 25.** It is pointed out that as per our discussion in detail above, we have held that the second floor is not covered under the definition of "Upper Floor" under the policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she has claimed allotment against the second floor, which is not included in the definition of upper floor under Part—B Para 10 of the policy.

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- 6. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
27. The Appellant/Claimant has tendered her Voter ID Card bearing No. ARE 2287449 (Annexure-A), Aadhar Card (Annexure-B), Pan Card Annexure-C).
28. It is pointed out that the Voter ID Card bearing No. ARE 2287449 (Annexure-A) has been issued on 21.09.2019, much after to the cutoff date of 01.01.2015 and accordingly the question of her name appearing in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.
29. The Appellant/Claimant has admitted that she is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. B-116 regarding which she has claimed allotment from DDA. The Appellant/Claimant has tendered her two joint Ration Cards (Annexure-I & Annexure-J). The old Ration Card (Annexure-I) has been issued in the name of her father-in-law, Niranjana, on 22.06.2002 whereas the New Ration Card (Annexure-J) has been issued in the name of her mother-in-law, Sandhya but the date of issuance is not mentioned. It is pointed out that in both the Ration Cards (Annexure-I & Annexure-J) the names of the family members, including the name of the husband of the present Appellant/Claimant, have been mentioned but the name of the present Appellant/Claimant is not mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of her Jhuggi on the second floor bearing No. B-116 regarding which she is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

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0. The Appellant/Claimant has tendered the Voter ID Card bearing No. ARE 1479649 (Annexure-D), Aadhar Card (Annexure-E), Pan Card (Annexure-F), Driving License (Annexure-G), Voter List of the year 2014 (Annexure-K), Voter List of the year 2019 (Annexure-L) & Pass Book of SBI (Annexure-M) of her husband Pradeep as well the Electricity Bill (Annexure-H).

31. It is pointed out that the Voter ID Card bearing No. ARE 1479649 (Annexure-D) has been issued on 07.01.2011, much prior to the cutoff date of 01.01.2015 and his name appears at SI. No. 300 in the Voter List of the year 2014 (Annexure-K) and at SI. No. 304 in the Voter List of the year 2019 (Annexure-L). The Pass Book of SBI (Annexure-M) shows that the account was opened by Pradeep on 11.03.2013. The Electricity Bill (Annexure-H) shows that the connection was taken by her father-in-law, Niranjan, on 17.05.2008. It is pointed out that the documents, Annexure-D to Annexure-H and Annexure-K to Annexure-M, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015, which is mandatory document for the upper floor and further the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

32. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and she has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part—B Para 10 of the policy. The documents, Annexure-A to Annexure-M, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. B-116 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part—B Para 10 of the policy and further she was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 and further the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

01-2015) & also in the year of survey. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

33. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/61/45.2/1285 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.
34. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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Rachna
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(Satish Ahlawat)

(Rachna Tiwary)

it. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

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**BEFURE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE
GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ
DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.**

Appeal No: 227 of 2022

Date of Institution: 23.11.2022

Date of Order: 21.03.2023

Present: Appellant/ Claimant Monie Burman Sbo Haripad

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

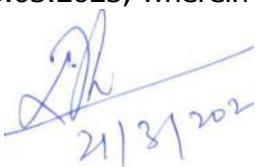
1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-209, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-209 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/67/043.1.1/1519 dated

07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 227 of 2022 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 16.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-209 was found to exist on the upper floor but he had failed to submit required documents, i.e., a separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee (EDC) has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Monie Burman, has been recorded before us on 16.03.2023, wherein he has stated that parents, Haripad & Dulali, are ving four sons,


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namely, Narain, Sunil, Sameer & Monie (Appellant/ Claimant) and one daughter, namely, Gita. All the children are married. Gita is living in her matrimonial home in Tughlakabad. Narain is married with Kajal and having two children, Vicky & Ria. Narain had died in 2020 and his widow Kajal had remarried. Whereas both the children, Vicky & Ria, are living with their grandparents. Sunil is married with Gita and having one son, Bishu. Sameer is married with Poonam and having one son, Yash. Monie (Appellant/Claimant) is married with Sulata and having two children, Shivam & Mahak.

8. The Appellant/ Claimant has stated that his family is having a four storey Jhuggi No. A-209 and it comprised of one room on each floor and there is a pucca staircase going from the ground to the first floor. The Appellant/ Claimant has stated that his parents, Haripad & Dulai, along with their grand children, Vicky and Ria, are living on the ground floor of Jhuggi No. A -209 and regarding that DDA has made allotment in favour of his mother, Dulali. These facts are not disputed by DDA.
9. The Appellant/ Claimant has stated that his brother Sameer along with his family is living on the second floor of the said Jhuggi No. A-209. But he has not sought allotment from DDA against the second floor. Further his brother Sunil along with his family was previously living on the third floor of the said Jhuggi No. A-209 but he has now shifted to Noida. He has also not sought allotment from DDA against the third floor. These facts are not disputed by DDA.
10. The Appellant/ Claimant has further stated that he along with his wife Sulata & two children is living on the first floor of the said Jhuggi No. A-209. The Appellant/ Claimant has sought allotment from DDA. But his claim has been rejected by EDC and aggrieved by the same he has filed the present Appeal No. 227 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-K, and prayed that DDA be directed to make allotment in his favour.
11. DDA has furnished the survey records along with 3 video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 16.03.2023 wherein he has stated that in one video clip of ground floor his mother Dulali is seen standing with him (Moni- Appellant/Claimant) in her Jhuggi on the ground floor. Further in

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the next 2 video clips he (Moni- Appellant/Claimant) is seen. His room and kitchen and a pucca staircase going from the ground floor to the first floor is also seen in these videos. It is pointed out that the survey team did not prepare the video of second and third floors because there was no claim for those floors. There is nothing to disbelieve the statement of the Appellant/Claimant to the effect that Jhuggi No. A-209 was a four storey structure. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a four storey pucca Jhuggi No. A-209 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for his residential purposes.

12. Accordingly, we have no hesitation in holding that the Jhuggi No. A-209 in Bhoomiheen Camp is a pucca four storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.
13. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
14. It is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate II dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card but he is having a joint ration card with his mother, Dulali. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is o


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illegality in the impugned rejection order bearing No. 385/67/043.1.1/1519 dated 07.11.2022.

15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become :-jj, ible for he purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor)AS PERDDA POLICY

16. As per Part—B Para 6 of DDA policy 11 dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

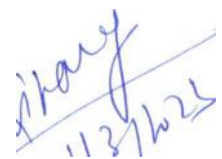
DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17. As already pointed out above, condition contained in Part—B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the s me will also be considered for allotment of a separate dwelling units."


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18. Thus Part—B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

19. The bare perusal of the Policy shows that for claiming allotment for upper floor the .1.1 dwellers must be a citizen of India and not less than 18 years of age and further also that the name of 11 dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

20.1n the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

21. The Appellant/Claimant has tendered his Voter ID Card bearing No. ARE 1975696 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List for the year 2015 (Annexure-J) and Voter List for the year 2019 (Annexure-K).

22. It is pointed out that the first Voter ID Card bearing No. ARE 1975696 (Annexure-A) has been issued on 11.09.2014, much prior to the cutoff date of 01.01.2015. The Appellant/Claimant has also submitted the Voter ID Card bearing No. ARE 1975696 (Annexure-A) has been issued on 11.09.2014, much prior to the cutoff date of 01.01.2015.

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Appellant/Claimant appears at SI. No. 76 in the Voter List for the year 2015 (Annexure-J) and at SI. No. 104 in the Voter List for the year 2019 (Annexure-K). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23. The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the second floor bearing No. A-209 regarding which he has claimed allotment from DDA. The Appellant/Claimant has tendered his two joint Ration Cards (Annexure-H and Annexure-I) and both have been issued in the name of his mother Dulali and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. The first Ration Card (Annexure-H) has been issued on 22.06.2002 but the second Ration Card (Annexure-I) does not bear the date of issuance. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor bearing No. A-209 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

24. The Appellant/Claimant has tendered his Driving License (Annexure-D), the Voter ID Card bearing No. ARE 2571321 (Annexure-E) & Aadhar Card (Annexure-F) of his wife Sulata as well as the Electricity Bill (Annexure-G).

25. It is pointed out that the Driving License (Annexure-D) has been issued on 28.08.2012 and the Voter ID Card bearing No. ARE 2571321 (Annexure-E) has been issued on 21.12.2021, much after the cutoff date of 01.01.2015. The Electricity Bill (Annexure-G) shows that the connection was taken by his mother Dulali on 28.08.2012 on the ground floor of the Jhuggi No. A-209. It is pertinent to point out that the documents, Annexure-D to Annexure-G, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015, which is mandatory document for the upper floor.


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- 2u. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he has claimed allotment against the first floor. The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. A-209 regarding which he has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.
27. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/67/043.1.1/1519 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.
28. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.


(Rajendra Singh)


(Sachin Ahlawat)


(Rachna Tiwary)

it. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 272 of 2023

Date of Institution: 25.11.2022

Date of Order: 21.03.2023

Present: Appellant/ Claimant Vinay Kumar S/o Nagender Prasad

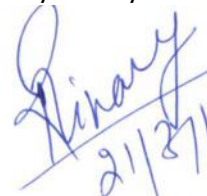
Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-191, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-191 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/26/151.1/893 dated


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07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 272 of 2023 has been filed by the present Appellant/ Claimant.

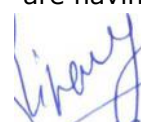
3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 15.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-191 was found to exist on the upper floor but he had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/ Claimant, Vinay Kumar, has been recorded before us on 15.03.2023, wherein he has stated that his parents, Nagender & Saraswa are having two


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ons, namely, Mohan & Vinay (Appellant/Claimant) and one daughter, namely, Sujita. Mohan is married with Sudha and having two children, Ansh & Anshita. Sujita is married with Munna and she is living in her matrimonial home in Gorakhpur. Whereas Vinay (Appellant/Claimant) is married with Hevanti and having three children, Vinita, Arpita & Anchal.

8. The Appellant/ Claimant has stated that his family is having a double storey Jhuggi No. B-191. His parents, Nagender & Saraswati along with the family of their son Mohan are living on the ground floor of the said Jhuggi No. B-191 and regarding that DDA has made allotment in favour of his mother Saraswati. These facts are not disputed by DDA.
9. The Appellant/ Claimant has also stated that he along with his wife, Hevanti and three daughters, Vinita, Arpita & Anchal, is living on the first floor of the said Jhuggi No. B491. The Appellant/ Claimant has sought allotment from DDA. But his claim has been rejected by DDA and aggrieved by the same he has filed Appeal No. 272 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-K, and prayed that DDA be directed to make allotment in his favour.
10. DDA has furnished the survey records along with 6 video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 15.03.2023 wherein he has stated that in four video clips his parents, Sarawati & Nagender, are seen in their Jhuggi on the ground floor. Their room and kitchen is also seen in theses videos. Further a pucca staircase is seen going from outside the ground floor to the upper floor. Further in the next two videos of the first floor he (Vinay- Appellant/Claimant) along with his wife Hevanti and daughters is seen standing in his room. His kitchen is also seen in theses videos of the first floor against which the Appellant/Claimant has sought allotment from DDA. There is nothing to disbelieve the statement of then Appellant/Claimant that Jhuggi No. B-191 is a double storey structure. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey pucca Jhuggi No. B-191 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.

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11. Accordingly, we have no hesitation in holding that the Jhuggi No. B-191 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant & his family has been using the first floor of the said Jhuggi for residential purposes.
12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.
13. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make allotment in his favour.
14. It is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/26/151.1/893 dated 07.11.2022.



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15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill



- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the II dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

16. As per Part—B Para 6 of DDA policy 11 dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17. As already pointed out above, condition contained in Part—B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18. Thus Part—B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against

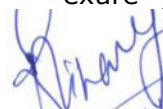
ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

19. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of .1.1 dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
20. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.
21. The Appellant/Claimant has tendered his two Voter ID Cards bearing number ARE 1740901 (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), Pan Card (Annexure-D), Voter List of the year 2014 (Annexure-J) and Voter List of the year 2019 (Annexure-K).
22. The Appellant/Claimant has tendered his two Voter ID Cards bearing number ARE 1740901 (Annexure-A & Annexure-B). Both the Voter ID Cards (Annexure-A & Annexure-B) are bearing same number, i.e., ARE 1740901. In the first Voter ID Card (Annexure-A) issued on 10.09.2013 the name of the Appellant/Claimant was wrongly mentioned to be Vijay and it was got corrected to Vinay by getting the second Voter ID Card (Annexure-B) issued on


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28.04.2022. The first Voter ID Card (Annexure-A) has been issued on 10.09.2013, much prior to the cutoff date of 01.01.2015. It is pointed out that the name of the Appellant/Claimant appears at SI. No. 986 in the Voter List of the year 2014 (Annexure-J) and at SI. No. 1136 in the Voter List of the year 2019 (Annexure-K) and in both the Voter lists (Annexure-.1 & Annexure-K) it is mentioned that the Appellant/ Claimant is having Voter ID Card bearing number ARE 1740901. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23. The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. B-191 regarding which he has claimed allotment from DDA. The Appellant/Claimant has stated that his name is mentioned in the joint Ration Card of his mother Saraswati. But it is pointed out that the Appellant/Claimant has not placed the said ration card of his mother on file. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor of Jhuggi bearing No. B-191 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

24. The Appellant/ Claimant has also tendered the Voter ID Card bearing number ARE 2026532 (Annexure-E), Aadhar Card (Annexure-F) & Pan Card (Annexure-G) of his wife Hevanti as well as his Pass Book of Bank of India (Annexure-H) and Electricity Bill (Annexure-I). The Voter ID Card bearing number 2026532 (Annexure-E) has been issued on 21.01.2015, much after the cutoff date of 01.01.2015. The Pass Book of Bank of India (Annexure-H) shows that the Appellant/Claimant has opened the account on 04.03.2017, much after the cutoff date of 01.01.2015. The Electricity Bill (Annexure-I) shows that the electricity connection has been taken by his father, Nagender, on 11.03.2010 on his ground floor Jhuggi No. B-191. It is pertinent to point out that the documents, Annexure-E to Annexure-I, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per ou iscussion above he

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was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

25. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he has claimed allotment against the first floor. The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. B-191 regarding which he has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.
26. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/26/151.1/893 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.
27. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.


(Ravi Singh)


(Sati Ahlawat)


(Rachna Tiwary)

Jt. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 276 of 2023

Date of Institution: 25.11.2022

Date of Order: 21.03.2023

Present: Appellant/ Claimant Pawan Das S/o Subal Das

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-425, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-425 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Office Bhoomiheen

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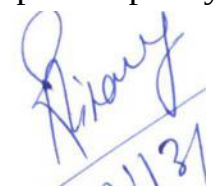
Camp, duly communicated its order bearing No. 385/37/67.1/1023 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 276 of 2023 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 17.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-425 was found to exist on the upper floor but he had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.


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7. The statement of the Appellant/ Claimant, Pawan Das, has been recorded before us on 17.03.2023, wherein he has stated that his parents, Subal & Renu, are having three sons, namely, Jiwan, Sapan & Pawan (Appellant/ Claimant) and one daughter, Sunita. All the children are married. Sunita is living in her matrimonial home in Bhoomiheen Camp. Jiwan is married with Raj Kumari and having three children, Jyoti, Tripati & Deepti. Sapan is married with Krishna and having three sons, Akash, Pradip & Suraj. Sapan had expired in the year 2019 whereas Krishna had expired about 2 years ago. Pawan (Appellant/ Claimant) is married with Latika and having two children, Partima & Vivek.
8. The Appellant/ Claimant has stated that his brother Jiwan along with his wife Raj Kumari and three children, Jyoti, Tripati & Deepti, is living separately in Jhuggi No. C-426 and regarding that DDA has made allotment in favour of Jiwan. These facts are not disputed by DDA.
9. The Appellant/ Claimant has stated that his family is having another triple storey Jhuggi No. C-425 and it comprised of one room on each floor and having a pucca staircase from outside. His parents, Subal & Renu, are living on the ground floor of the said Jhuggi No. C-425 and regarding that DDA has made allotment in favour of his father, Subal. These facts are not disputed by DDA.
10. The Appellant/ Claimant has further stated that his brother, Sapan along with his wife, Krishna, and three sons, Akash, Pradip & Suraj, are living on the second floor of the said Jhuggi No. C-425. Subal Das (since deceased) has sought allotment from DDA against the second floor. But his claim has been rejected by DDA and aggrieved by the same Akash in the capacity of legal heir of Sapan Das has filed Appeal No. 589 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.
11. The Appellant/ Claimant has further stated that he along with his wife, Latika & two children, namely, Partima & Vivek, is living on the first floor of Jhuggi No. C-425. The Appellant/ Claimant has sought allotment from DDA against the first floor of Jhuggi No. C-425 but his claim for allotment was rejected by DDA. Aggrieved by the same he had filed appeal No. 276 of 2023 before the Appellate Authority for redressal. The

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Appellant/ Claimant has tendered documents, Annexure-A to Annexure-J, and prayed that DDA be directed to make allotment in his favour.

12. It is pointed out that both the Appeal No. 276 of 2023 and Appeal No. 589 of 2023 shall be decided separately on their individual merits.

13. DDA has furnished the survey records along with 6 video clips. The video clips were played before the Appellant/ Claimant when his statement was recorded before us on 17.03.2023 wherein he has stated that in the first 2 video clips his parents, Subal & Renu, are seen standing on the ground floor of her Jhuggi No. C-425. Further in the 3 video clips of the first floor he (Pawan- Appellant/ Claimant) and his wife Latika are seen standing on the first floor and their room and kitchen are also seen in these videos. In the next video of second floor Akash & his brother Suraj, are seen standing in the Jhuggi on the second floor and getting the survey conducted on behalf of their father Subal Das (since deceased) and a room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the **Amalie** triple pucca Jhuggi No. C-425 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant and his family has been using the first floor of the said Jhuggi for their residential purposes.

14. Accordingly, we have no hesitation in holding that the Jhuggi No. C-425 in Bhoomiheen Camp is a pucca triple storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant and his family has been using the first floor of the said Jhuggi for their residential purposes.

15. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

16. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

17. It is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card but having a joint Ration Card issued in the name of his mother, Renu Das. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/37/67.1/1023 dated 07.11.2022.

18. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.

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7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

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-LLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor)AS
PERDDA POLICY

19.As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA
POLICY

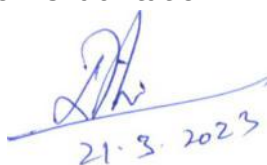
20.As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

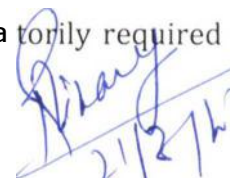
"O. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

21.Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

22.The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required


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to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

24. The Appellant/Claimant has tendered his Voter ID Card bearing number DL/03/035/249385 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2014 (Annexure-I) and the Voter List of the year 2019 (Annexure-J).

25. The Appellant/Claimant has tendered his Voter ID Card bearing number DL/03/035/249385 (Annexure-A), which has been issued on 24.04.2010, much prior to the cutoff date of 01.01.2015. It is pointed out that the name of the Appellant/Claimant appears at Si. No. 31 in the Voter List of the year 2014 (Annexure-I) and at SI. No. 45 in the Voter List of the year 2019 (Annexure-J). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

26. The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. C-425 regarding which he has claimed allotment from DDA. The Appellant/Claimant has tendered his joint Ration Card, Annexure-H, which has been issued in the name of his mother, Renu Das, and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned but the date of issuance is not mentioned. But t act rem ins


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Lhat the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor of Jhuggi bearing No. C-425 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

27.The Appellant/ Claimant has also tendered the Voter ID Card bearing number ARE 1185476 (Annexure-D), Aadhar Card (Annexure-E) & Pan Card (Annexure-F) of his wife Latika and his Pass Book of PNB (Annexure-G).

28.It is pointed out that the Voter ID Card bearing number ARE 1185476 (Annexure-D) has been issued on 24.04.2010, much prior to the cutoff date of 01.01.2015 and the Pass Book of PNB (Annexure-G) shows that the Appellant/Claimant has opened the account on 08.10.1998. It is pertinent to point out that the documents, Annexure-D to Annexure-G, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above he was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

29.The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he has claimed allotment against the first floor. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. C-425 regarding which he has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

30.The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination • mitte has


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rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/37/67.1/1023 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

31. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Satish lawat)

(Rachna Tiwary)

Jt. Secretary (Retd.) GO! Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFURE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 589 of 2023

Date of Institution: 07.12.2022

Date of Order: 21.03.2023

Present: Appellant/ Claimant Sapan Das (since deceased) S/o Subal Das through his legal heir, Akash (son)

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

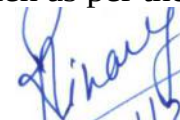
1. This order disposes off the present appeal filed by the Appellant/ Claimant Sapan Das (since deceased) S/o Subal Das through his legal against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant Sapan Das (since deceased) had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-425, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-425 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy


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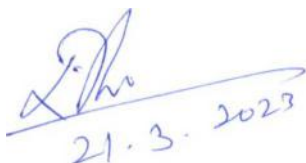
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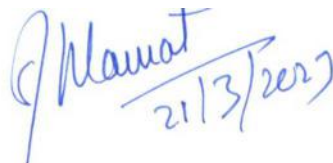
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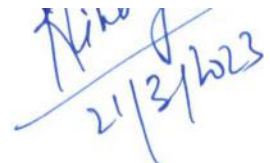

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guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/37/67.2/1022 dated 07.11.2022 to the legal heirs of the present Appellant/ Claimant, who has since died on 13.10.2019. Aggrieved by the same, the present Appeal No. 589 of 2023 has been filed by his legal heir Akash (son).

3. In response to the notice, Akash, legal heir of the present Appellant/ Claimant, Sapan Das (since deceased) S/o Subal Das has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of Akash has been recorded before us on 17.03.2023 and he has tendered documents, Annexure- A to Annexure- M, in support of the claim of the present Appellant/ Claimant, Sapan Das (since deceased) S/o Subal Das. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by Akash, legal heir of the present Appellant/ Claimant, Sapan Das (since deceased) S/o Subal Das as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-425 was found to exist on the upper floor but he had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the present appeal has been filed before us by the Appellant/ Claimant, Sapan Das (since deceased) S/o Subal Das through his legal heir Akash (son) against order dated 07.11.2022 passed by the Eligibility Determination Committee.


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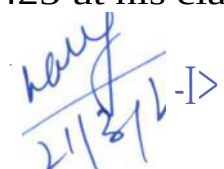

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in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/ Claimant, Sapan Das (since deceased) S/o Subal Das. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant, Sapan Das (since deceased) S/o Subal Das was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.

7. The statement of Akash, who is son of the Appellant/ Claimant Sapan Das (since deceased), has been recorded before us on 17.03.2023, wherein he has stated that his grand parents, Subal & Renu, are having three sons, namely, Jiwan, Sapan (Appellant/ Claimant) & Pawan and one daughter, Sunita. All the children are married. Sunita is living in her matrimonial home in Bhoomiheen Camp. Jiwan is married with Raj Kumari and having three children, Jyoti, Tripathi & Deepti. Pawan is married with Latika and having two children, Partima & Vivek. Sapan (Since Deceased) is married with Krishna and having three sons, Akash, Pradip & Suraj. Sapan had expired on 13.10.2019 whereas Krishna had expired on 08.06.2020 and their death certificates are, Annexure-I & Annexure-J, respectively.
8. Akash has stated that his uncle Jiwan along with his wife Raj Kumari and three children, Jyoti, Tripathi & Deepti, is living separately in Jhuggi No. C-426 and regarding that DDA has made allotment in favour of Jiwan. These facts are not disputed by DDA.
9. Akash has stated that his family is having another triple storey Jhuggi No. C-425 and it comprised of one room on each floor and having a pucca staircase from outside. His grand parents, Subal & Renu, are living on the ground floor of the said Jhuggi No. C-425 and regarding that DDA has made allotment in favour of his grand father, Subal. These facts are not disputed by DDA.
10. Akash has further stated that his uncle Pawan along with his wife, Latika & two children, namely, Partima & Vivek, is living on the first floor of Jhuggi No. C-425. Pawan has sought allotment from DDA against the first floor of Jhuggi C-425 ut his claim



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for allotment was rejected by DDA. Aggrieved by the same he had filed appeal No. 276 of 2023 before the Appellate Authority for redressal.

11. Akash has also stated that his parents, Sapan & Krishna, along with three sons, Akash, Pradip & Suraj, were living on the second floor of the said Jhuggi No. C-425. His father, Subal Das (since deceased) has sought allotment from DDA against the second floor. But his claim has been rejected by DDA and aggrieved by the same he in the capacity of his legal heir has filed Appeal No. 589 of 2023 before the Appellate Authority for redressal. Akash has tendered documents, Annexure-A to Annexure-M, and prayed that DDA be directed to make allotment in favour of Subal Das (since deceased).
12. It is pointed out that both the Appeal No. 276 of 2023 and Appeal No. 589 of 2023 shall be decided separately on their individual merits.
13. DDA has furnished the survey records along with 6 video clips. The video clips were played before Akash when his statement was recorded before us on 17.03.2023 wherein he has stated that in the first 2 video clips his grand parents, Subal & Renu, are seen standing on the ground floor of her Jhuggi No. C-425. Further in the 3 video clips of the first floor Pawan & Latika are seen standing on the first floor and their room and & kitchen are also seen in these videos. In the next video of second floor he (Akash) along with his brother Suraj is seen standing in the Jhuggi on the second floor and getting the survey conducted on behalf of their father Subal Das (since deceased) and a room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. C-425 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant Subal Das (since deceased) and his family has been using the second floor of the said Jhuggi for their residential purposes.
14. Accordingly, we have no hesitation in holding that the Jhuggi No. C-425 in Bhoomiheen Camp is a pucca triple storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant Subal Das (since deceased) and his family has been using the second floor of the said Jhuggi for their residential purposes.

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15. iv ow we shall first appraise the material placed on file to determine as to whether the Appellant/Claimant Subal Das (since deceased) was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.
16. Akash has stated that the claim of Appellant/Claimant Subal Das (since deceased) has been wrongly rejected by DDA. He has tendered documents, Annexure-A to Annexure-M, in support of his claim and prayed that DDA be directed to make allotment in favour of Appellant/Claimant Subal Das (since deceased).
17. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.
- It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/Claimant Subal Das (since deceased) does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor and further he was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/37/67.2/1022 dated 07.11.2022.



18. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi is being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

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As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

**DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor)
AS PER DDA POLICY**

19.As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

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DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

20. It is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part-B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

21. It is pointed out that in the policy the words *"First Floor or Second Floor or Third Floor"* are intentionally not used but the word *"Upper Floor"* is used. So in the cases where the Jhuggi is double storey there is no confusion because the *"First Floor"* of that Jhuggi without confusion is covered under the definition of *"Upper Floor"*. But in the cases where the Jhuggi is constructed more than double storey, then dispute arises with respect to the definition of *"Upper Floor"*. The moot question involved is whether the dwellers living on the second floor or third floor, akin to the dweller living on the first floor, shall also be entitled for alternative allotment if they possess requisite documents or not. In simple terms whether the word *"Upper Floor"* only connotes the *"First Floor"* or it also includes *"Second Floor"* & *"Third Floor"* of the Jhuggi.

22. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card and there is no doubt instead of using the word *"First Floor"* the word *"Upper Floor"* has been used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further expanded to include the dweller living on the second & third floors. Furthermore, the words *"Upper Floor"* cannot be interpreted to be used in plural as *"Upper Floors"* by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -


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"13. Gender and number:- In all Central Acts and Regulations unless there is anything repugnant in the subject or context,-

(1) words importing the masculine gender shall also be taken to include females; and

(2) words in the singular shall include the plural, and vice versa.

23. The bare perusal of Part-B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

24. Thus we have no hesitation in holding that the words "Upper Floor" used in the DDA policy without confusion connotes and includes only the "First Floor" of the Jhuggi. Thus the "Second Floor" & "Third Floor" of the Jhuggi are not included in the definition of the words "Upper Floor" used in the policy. In simple terms the word "Upper Floor" only connotes the "First Floor" of the Jhuggi and it does not include the "Second Floor" & "Third Floor" of the Jhuggi.

In view of the matter the words "upper floor" used in Part-B Para 10 of the DDA policy only denotes first floor and not all the floors above the first floor meaning thereby that the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

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25.1 hus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

26.The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

27.1n the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further whether the Appellant/Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

28.1t is pointed out that as per our discussion in detail above, we have held that the second floor is not covered under the definition of "Upper Floor" under the policy/guidelines issued by DDA. Therefore, we have no hesita n in holding that the

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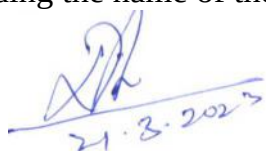
Appellant/Claimant Subal Das (since deceased) does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor under Part—B Para 10 of the policy.

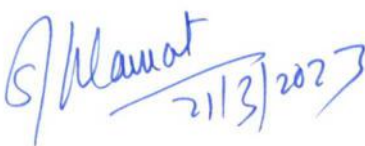
29. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/Claimant Subal Das (since deceased) was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.

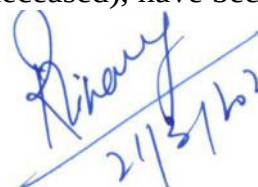
30. Akash has tendered the Voter ID Card bearing number CXY 1081645 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2014 (Annexure-L) and the Voter List of the year 2019 (Annexure-M) of his father Appellant/Claimant Subal Das (since deceased).

31. The Voter ID Card bearing number CXY 1081645 (Annexure-A) has been issued on 24.04.2010, much prior to the cutoff date of 01.01.2015. It is pointed out that the name of the Appellant/Claimant Subal Das (since deceased) appears at SI. No. 534 in the Voter List of the year 2014 (Annexure-L) and at Si. No. 544 in the Voter List of the year 2019 (Annexure-M) in which his Voter ID Card is mentioned to be CXY 1081645. Therefore, we have no hesitation in holding that the Appellant/Claimant Subal Das (since deceased) was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

32. Akash has admitted that Appellant/Claimant Subal Das (since deceased) was not having a separate Ration Card issued on the address of jhuggi on the first floor bearing No. C-425 regarding which Appellant/Claimant Subal Das (since deceased) has claimed allotment from DDA. He has tendered joint Ration Card, Annexure-K, which has been issued in the name of his grand mother, Renu, and the names of the family members, including the name of the Appellant/Claimant Subal Das (since deceased), have been


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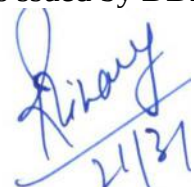
mentioned but the date of issuance is not mentioned. But the fact remains that the Appellant/Claimant Subal Das (since deceased) was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the second floor of Jhuggi bearing No. C-425 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant Subal Das (since deceased) does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

33. Akash has also tendered the Voter ID Card bearing number CXY 1079458 (Annexure-D), Aadhar Card (Annexure-E) & Pan Card (Annexure-F) of his mother Krishna as well as his Aadhar Card (Annexure-G) & Pan Card (Annexure-H). The Voter ID Card bearing number CXY 1079458 (Annexure-D) has been issued on 01.05.2018, much after the cutoff date of 01.01.2015. It is pertinent to point out that the documents, Annexure-D, to Annexure-H, are of no help to the Appellant/Claimant Subal Das (since deceased) because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above he was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

34. The material placed on file shows that the Appellant/Claimant Subal Das (since deceased) was not having a separate Ration Card on the cut off date of 01.01.2015 and he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part-B Para 10 of the policy. The documents, Annexure-A to Annexure-M, are of no help to the Appellant/Claimant Subal Das (since deceased) because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. C-425 against which the Appellant/Claimant Subal Das (since deceased) is claiming allotment is not covered under the definition of upper floor under Part-B Para 10 of the policy and further he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of upper floor of Jhuggi No. C-425 regarding which he has claimed allotment from DDA. Therefore, Appellant/Claimant Subal Das (since deceased) does not fulfill the eligibility criteria as per the guidelines issued by DDA.


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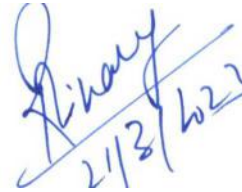
35. The Appellant/Claimant Subal Das (since deceased) has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/37/67.2/1022 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

36. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.



21/3/2023

(Satish Ahlawat)



21/3/2023

(Rachna Tiwary)

(Ranynr-SinghP)

Jt. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, ICALICAJI.

Appeal No: 141 of 2022

Date of Institution: 22.11.2022

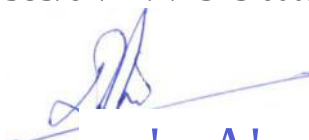
Date of Order: 22.03.2023

Present: Appellant/ Shiv Kumar Sb o Vijay Bahadur

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

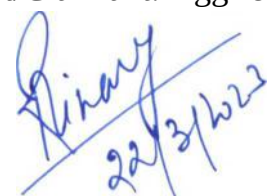
ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-140/A Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-140/A was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/67/27.1/1515 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by


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the same, the present Appeal No. 141 of 2022 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 23.02.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-140 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be "**No Separate Ration Card for Upper Floor Jhuggi**" and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant has been recorded before us on 23.02.2023, wherein he has stated that his parents, Vijay Bahadur & Nirmala, are having two sons, namely, Sonu and Shiv Kumar (Appellant/Claimant). Sonu is married with Pinki and


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having one daughter. Shiv Kumar is married with Neelam and having two children, Vivan and Via nyak.

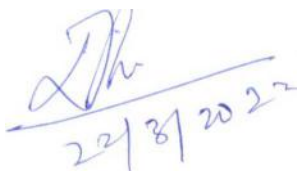
8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi bearing No. A-140/A. His parents, Vijay Bahadur & Nirmala, along with the family of their son, Sonu, are living on the ground floor of the said Jhuggi No. A-140/A and regarding that DDA has made allotment in favour of his mother Nirmala. These facts are not disputed by DDA.
9. The Appellant/Claimant has further stated that he along with his wife Neelam and two children is living on the first floor of his parents bearing Jhuggi No. A-140/A in Bhoomiheen Camp. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-140/A but his claim has been rejected and accordingly aggrieved by the same he has filed Appeal No. 141 of 2022 before the Appellate Authority. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-M, and prayed that DDA be directed to make allotment in his favour.
10. DDA has furnished the survey records along with six video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 23.02.2023 wherein he has stated that in first four video clips his father Vijay Bhadur is seen standing in his Jhuggi on the ground floor. Further he is also seen holding a slate in his hand on which the name of Nirmala is written. A room and kitchen is also seen in these video clips of the ground floor. In the other 2 video clips he (Shiv Kumar-Appellant/Claimant) is seen on the first floor and his room is also seen and further an iron ladder going from the ground floor to the first floor is also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. A-140/A was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.
11. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-140/A in Bhoomiheen Camp is a pucca structure and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.

12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
13. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-M, in support of his claim and prayed that DDA be directed to make allotment in his favour.
14. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut- off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is having a joint Ration Card with his mother Nirmala. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015 even if he possesses a Voter ID Card on the cut -off date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/67/27.1.1/1515 dated 07.11.2022.
15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.


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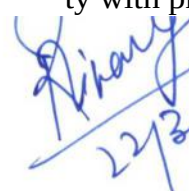
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above. the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.


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- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PERDDA POLICY

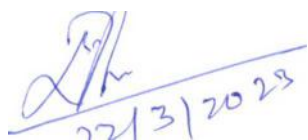
16.As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17.As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

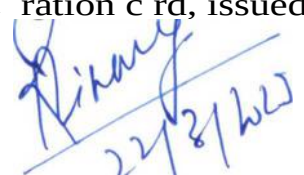
"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18. Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued



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before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

19.The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

20.In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

21.The Appellant/Claimant has tendered his Voter ID Card ARE 1505411 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2014 (Annexure-L) and Voter List of the year 2019 (Annexure-M).

22.The Appellant/Claimant has tendered the Voter ID Card bearing number ARE 1505411 (Annexure-A), which has been issued on 03.02.2012, much prior to the cut off date of 01.01.2015. The Appellant/Claimant has also tendered the Voter List of the year 2014 (Annexure-L) in which his name appears at SI. No. 612 and the Voter list of the year 2019 (Annexure-M) in which his name appears at SI. No. 769. Y1Trefore we hav no

hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 and 2019 (prior to 01-01-2015) & also in the year of survey.

23.The Appellant/ Claimant has admitted that he is not having a separate Ration card on the address of the first floor of the said Jhuggi No. A-140/A regarding which he is claiming allotment from DDA. He has tendered Joint Ration Card (Annexure-I) issued in the name of his mother, Nirmala and in which the names of the family members, including that of the present Appellant/ Claimant, have been mentioned. In the Ration Card (Annexure-I) the date of issuance is not mentioned. But the fact remains that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor of Jhuggi bearing No. A-140/A regarding which he is claiming allotment from DDA despite of the fact that he is claiming allotment against the upper floor. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

24.The Appellant/ Claimant has also tendered the Voter ID Card No. ARE 1974797 (Annexure -D), Aadhar Card (Annexure-E) & Pan Card (Annexure-F) of his wife Neelam as well as the Electricity Bill (Annexure-G), his Bank Pass Book of SBI (Annexure-H), Aadhar Cards (Annexure-J and Annexure-K) of his children, Vinayak & Vivan. The Voter ID Card No. ARE 1974797 (Annexure -D) has been issued on 23.09.2014, much prior to the cut off date of 01.01.2015. The Electricity Bill (Annexure-G) shows that the Electricity connection has been taken on 09.06. 2008 in the name of his father Vijay Bahahdur on his Jhuggi on the ground floor. There was no separate electricity connection for the first floor. The Bank Pass Book of SBI (Annexure-H) shows that the account was opened by the Appellant/ Claimant on 08.11.2016, much after the cut off date of 01.01.2015. It is pointed out that the documents, Annexure-D to Annexure-H and Annexure-) & Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above he was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

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25. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he has claimed allotment against the first floor. The documents, Annexure-A to Annexure-M, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. A-140/A regarding which he has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

26. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/67/27.1.1/1515 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

27. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ran s ir Sing—)

(S tish Ahlawat)

(Rachna Tiwary)

Jt. Secretary (Retd.) GO!

Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 144 of 2022

Date of Institution: 22.11.2022

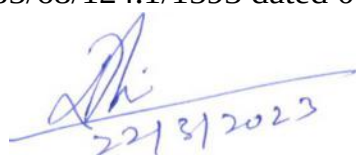
Date of Order: 22.03.2023

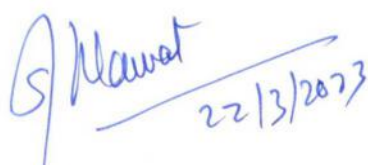
Present: Appellant/ Niranjan Kandar Sb o Gurpad Kandar

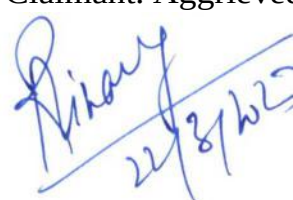
Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-269 Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-269 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/68/124.1/1593 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved


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by the same, the present Appeal No. 144 of 2022 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 23.02.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-269 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant has been recorded before us on 23.02.2023, wherein he has stated that his parents, Gurpad & Chavi lives in West Bengal. His father Gurpad had expired about 30 years ago and his mother still lives in West Bengal. The Appellant/ Claimant further stated that they are five brothers, namely, Samul, Kanal,

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Dukhi Ram, Lal Mohan & Niranjana (Appellant/ Claimant) and three sisters, namely, Sumita, Kajal & Geeta. All of them are married. His three sisters, namely, Sumita, Kajal and Geeta are living in their respective matrimonial homes in West Bengal. His three brothers, Kanai, Lal Mohan & Dukhi Ram also live in West Bengal. Whereas only two of them namely Niranjana and Samul are living in Bhoomiheen Camp, Delhi.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi bearing No. B-269. His brother Samul along with his wife Suchitra and three children, Nishita, Raja & Arpita, is living on the ground floor of the said Jhuggi No. B-269 and regarding that DDA has made allotment in favour of Suchitra. These facts are not disputed by DDA.
9. The Appellant/Claimant has stated he along with his wife Sanjita and two children, Shipra & Karan is living on the first floor of Jhuggi No. B-269 in Bhoomiheen Camp. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. B-269 but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal No. 144 of 2022 for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make alternative allotment in his favour as per the policy guidelines issued by DDA.
10. DDA has furnished the survey records along with nine video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 23.02.2023 wherein he has stated that in the first 6 video clips his sister-in-law, Suchitra, is seen standing in her room on the ground floor and a room & kitchen are also seen on the ground floor. Further in the next three video clips of first floor he (Niranjana- Appellant/Claimant) is seen standing and his room & a kitchen is also seen in these video clips. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. B-269 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.
11. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-269 in Bhoomiheen Camp is a pucca structure and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.


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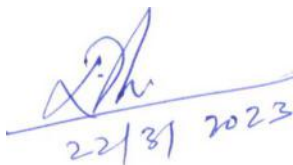

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12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
13. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make allotment in his favour.
14. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut- off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is having a joint Ration Card with his brother, Samul. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015 even if he possesses a Voter ID Card on the cut -off date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/68/124.1/1593 dated 07.11.2022.
15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.


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2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.

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- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

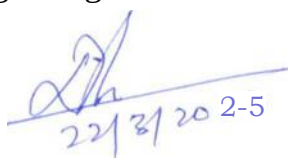
16. As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

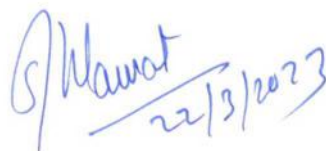
DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

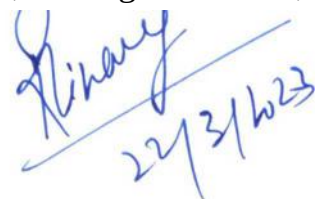
17. As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18. Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, cluding ration card, issued


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before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

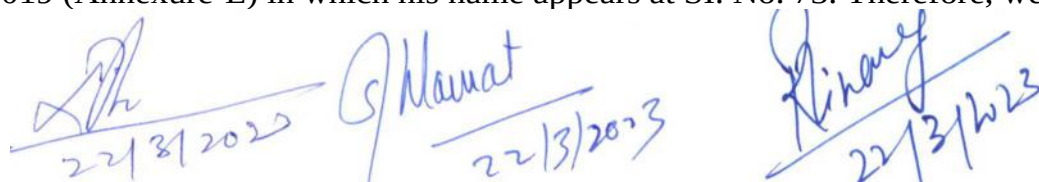
GIST OF THE POLICY

19.The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

20.In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

21.The Appellant/Claimant has tendered his Voter ID Card CXY 1406719 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2014 (Annexure-K) and Voter List of the year 2019 (Annexure-L).

22.The Appellant/Claimant has tendered the Voter ID Card bearing number CXY 1406719 (Annexure-A), which has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The Appellant/Claimant has also tendered the Voter list of the year 2014 (Annexure-K) in which his name appears at SI. No. 643 and the Voter list of the year 2019 (Annexure-L) in which his name appears at SI. No. 73. Therefore, we have no



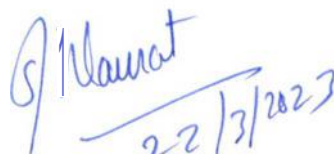
hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 and 2019 (prior to 01-01-2015) & also in the year of survey.

23.The Appellant/ Claimant has admitted that he is not having a separate Ration card on the address of the first floor of the said Jhuggi No. B-269 regarding which he is claiming allotment from DDA. He has tendered Joint Ration Card (Annexure-J) issued on 02.11.2014 in the name of his brother Samul and in that the names of the family members, including that of the present Appellant/ Claimant, have been mentioned. But the fact remains that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor of Jhuggi bearing No. B-269 regarding which he is claiming allotment from DDA despite of the fact that he is claiming allotment against the upper floor. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

24.The Appellant/Claimant has tendered the Gas bill (Annexure-D), Pass Book of SBI (Annexure-E) as well as the Voter ID Card CXY 1406727 (Annexure-F), Aadhar Card (Annexure-G) & Pan Card (Annexure-H) of his wife Sanjita and Electricity Bill (Annexure-I).

25.The Gas bill (Annexure-D) shows that the connection was taken on 17.09.2015 and the Pass Book of SBI (Annexure-E) shows that the account has been opened but the date of issuance is not mentioned. The Voter ID Card No. CXY 1406727 (Annexure -E) has been issued on 28.04.2018, much after the cut off date of 01.01.2015. The Electricity Bill (Annexure-I) shows that the Electricity connection has been taken on 10.05.2008 in the name of his brother, Samul on his Jhuggi on the ground floor and there was no separate electricity connection for the first floor. It is pointed out that the documents, Annexure-D to Annexure-I, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above he was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.


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26. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he has claimed allotment against the first floor. The documents, Annexure-A to Annexure-L, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. B-269 regarding which he has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

27. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/68/124.1/1593 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

28. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.


(Ranbir Singh) vt 51

It. Secretary (Retd.) GOI

MEMBER

(Satish Ahlawat)

Addl. District & Sessions Judge (Retd.)

CHAIRMAN


24/3/2023

(Rachna Tiwary)

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 226 of 2023

Date of Institution: 23.11.2022

Date of Order: 22.03.2023

Present: Appellant/ Claimant Rajesh Kumar S/o Ram Bhadur

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-141, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-141 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/67/028.1.1/ 1516 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. '6 of 2023 has been filed by the present Appellant/ Claimant.

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3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 17.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-141 was found to exist on the upper floor but he had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant has been recorded before us on 17.03.2023, wherein he has stated that his parents, Ram Bahadur & Draupadi, are having two sons, Subhash and Rajesh (Appellant/Claimant) and one daughter, Kalawati. All the children are married. Ram Bahadur had expired in the 2021. Ka wati is living in her

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22/3/2023

Rajesh
22/3/23

matrimonial home in Gurgaon. Subhash is married with Kiran and having two children Aniket & Anvi. Rajesh (Appellant/Claimant) is married with Mithilesh and having one son, Shubham.

8. The Appellant/Claimant has stated that his parents are having a double storey Jhuggi No. A-141 in Bhoomiheen Camp, Kalkaji and it comprises of one room on each floor. His parents, Ram Bahadur (until his death) & Draupadi, are living on the ground floor of the said Jhuggi No. A-141 along with the family of their son, Subhash. Kiran W/o Subhash had sought allotment against the ground floor of Jhuggi No. A-141. DDA has made allotment in favour of Kiran against the ground floor of Jhuggi No. A-141. These facts are not disputed by DDA.
9. The Appellant/Claimant has stated that he along with his wife Mithilesh & son, Shubham has been living on the first floor of Jhuggi No. A-141 in Bhoomiheen Camp. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi A-141 but his claim has been rejected by EDC and accordingly aggrieved by the same he has filed the present Appeal No. 226 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make alternative allotment in his favour as per the policy guidelines issued by DDA.
10. DDA has furnished the survey records along with two video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 17.03.2023 wherein he has stated that in the first two video clips Kiran is seen in her Jhuggi on the ground floor and a room and kitchen are also seen. Further in the next three video clips a pucca staircase is seen going from the ground floor to the upper floor is seen and further his brother, Subhash, is seen standing inside one room on the first floor and one locked room is also seen in these video clips and Subhash is also heard saying that the room belongs to him (Rajesh- Appellant/Claimant) and Subhash is also heard saying that he (Rajesh) has gone to the village and then also stated that Rajesh had gone out for work. One locked room is also seen in these video clips. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey pucca Jhuggi No. A-141 was in existence in the


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Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.

11. Accordingly, we have no hesitation in holding that the Jhuggi No. A-141 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant & his family has been using the first floor of the said Jhuggi for residential purposes.
12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
13. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.
14. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card but having a joint Ration Card with his father Ram Bahadur. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/67/028.1.1/ 1516 dated 07.11.2022.



15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As en gged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.


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- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/Ji dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor)AS PERDDA POLICY

16.As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17.As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."



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18. Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

19. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

20. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

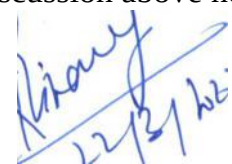
21. The Appellant/Claimant has tendered his Voter ID Card bearing number CXY 1069939, (Annexure-A), Aadhar Card (Annexure-B), voter List of the year 2014 (Annexure-G) and voter List of the year 20149 (Annexure El)


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22. The Appellant/Claimant has tendered his Voter ID Card bearing number CXY 1069939 (Annexure-A), which has been issued on 25.03.2002, much prior to the cutoff date of 01.01.2015. It is pointed out that the name of the Appellant/Claimant appears at SI. No. 615 in the Voter List of the year 2014 (Annexure-G) and at SI. No. 774 in the Voter List of the year 2019 (Annexure-H) in which the Voter ID Card of the Appellant/ Claimant. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
23. The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. A-141 regarding which he has claimed allotment from DDA. He has tendered two Joint Ration Cards (Annexure-F & Annexure-J). The old Ration Card (Annexure-F) has been issued on 20.09.2008 in the name of his father, Ram Bahadur, and in that the names of the family members, including that of the present Appellant/ Claimant, have been mentioned. The new Ration Card (Annexure-G) has been issued on 06.11.2014 in the name of his sister-in-law, Kiran W/o Subhash, and in that the names of the family members, including that of the present Appellant/ Claimant, have been mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor of Jhuggi bearing No. A-141 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.
24. The Appellant/ Claimant has also tendered the Aadhar Card (Annexure-C) of his wife Mithlesh, Aadhar Card (Annexure-D) & Voter ID Card bearing number ARE 2258267 dated 10.04.2019 (Annexure-E), of his son, Shubham and Electricity Bill (Annexure-I). The Voter ID Card bearing number ARE 2258267 (Annexure-E) has been issued on 10.04.2019, much after to the cutoff date of 01.01.2015. The Electricity Bill (Annexure-I) shows that the connection has been taken by his father, Ram Bahadur on 06.11.2014. It is pertinent to point out that the abovementioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above he was



not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

25. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he has claimed allotment against the first floor. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. A-141 regarding which he has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

26. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/67/028.1.1/ 1516 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

27. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due complia



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(Rachda 'wary)

Jt. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

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BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 296 of 2023

Date of Institution: 25.11.2022

Date of Order: 22.03.2023

Present: Appellant/ Claimant Ram Lal Parjapati S/o Ram Shankar

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-136, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-136 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/67/20.1.1/ 1512 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No.296 of 2023 has been filed by the present Appellant/ Claimant.

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3. in response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 17.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-136 was found to exist on the upper floor but he had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

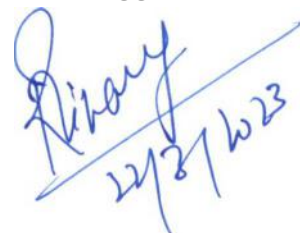
7. The statement of the Appellant/Claimant, Ram Lal Prajapati, has been recorded before us on 17.03.2023, wherein he has stated that his parents, Ram Shankar & Phoolwati have both expired long time back thereby leaving behind two sons, namely, Chhedilal & Ram La (Appellant/Claimant) and one daughter, namely, Bitten 11 the children are


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married. Bitten is living in her matrimonial home in Uttar Pradesh. Chhedilal is married with Santosh and having six children, namely, Ram Kumar, Rajesh, Vinod, Leelawati, Seema & Meena. Ram Lal (Appellant/Claimant) is married with Anara Devi and having three children, namely, Kanchan, Nirmala & Ganga Ram.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. A-136 and it comprises of one room on each floor and an iron ladder is used for going to the first floor. His brother Chhedilal along with his wife Santosh & six children is living on the ground floor of Jhuggi No. A-136 DDA has made allotment in favour of Santosh against the ground floor of Jhuggi No. A-136. These facts are not disputed by DDA.
9. The Appellant/Claimant has stated that he along with his wife Anara and three children has been living on the first floor of Jhuggi No. A-136 in Bhoomiheen Camp The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi A-136 but his claim has been rejected by EDC and accordingly aggrieved by the same he has filed the present Appeal No. 296 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-I, in support of his claim and prayed that DDA be directed to make alternative allotment in his favour as per the policy guidelines issued by DDA.
10. DDA has furnished the survey records along with five video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 17.03.2023 wherein he has stated that in two video clips of the ground floor his sister-in-law Santosh along with one of her sons is seen and a room and kitchen are also seen in these two video clips. Further, in the next three video clips, an iron ladder is seen going from the ground floor to the first floor and further a room and kitchen is seen on the first floor of the said Jhuggi and he (Ram Lal- Appellant/Claimant) is seen standing in his room on the first floor. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey pucca Jhuggi No. A-136 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential Purposes.

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11. Accordingly, we have no hesitation in holding that the Jhuggi No. A-136 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant & his family has been using the first floor of the said Jhuggi for residential purposes.

12.Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

13.The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-I, in support of his claim and prayed that DDA be directed to make allotment in his favour.

14. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/67/20.1.1/ 1512 dated 07.11.2022.

15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.

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- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph. Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/Ji dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor)AS PERDDA POLICY

16.As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17.As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18.Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment

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against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

19.The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

20.In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

21.The Appellant/Claimant has tendered his Voter ID Card bearing number DL/03/035/240956 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2014 (Annexure-H) and the Voter List of the year 2019 (Annexure-I).

22.The Appellant/Claimant has tendered his Voter ID Card bearing number DL/03/035/240956 (Annexure-A), which has been issued on 17.03.1997, much prior to the cutoff date of 01.01.2015. But no Voter List is placed on file to show that the Appellant/Claimant had casted his vote by using the said Vo ID Card bearing

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number DL/03/035/240956 (Annexure-A). It is pointed out that the name of the Appellant/Claimant appears at SI. No. 592 in the Voter List of the year 2014 (Annexure-H) and at Si. No. 750 in the Voter List of the year 2019 (Annexure-I) in which the Voter ID Card of the Appellant/ Claimant is mentioned to be bearing No. ARE 1189844 on the address of Jhuggi No. A-136. However it is pointed out that the said Voter ID Card bearing No. ARE 1189844 is not placed on file by the Appellant/ Claimant. But the Voter List of the year 2014 (Annexure-H) and the Voter List of the year 2019 (Annexure-I) shows that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23.The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. A-136 regarding which he has claimed allotment from DDA. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor of Jhuggi bearing No. A-136 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

24.The Appellant/ Claimant has also tendered the Voter ID Card bearing number ARE 1913366 (Annexure-D), Aadhar Card (Annexure-E) & Pan Card (Annexure-F) of his wife Anara as well as his Pass Book of ICICI (Annexure-G). The Voter ID Card bearing number ARE 1913366 (Annexure-E) has been issued on 25.03.2014, much prior to the cutoff date of 01.01.2015. The Pass Book of ICICI (Annexure-G) shows that the Appellant/Claimant has opened the account in the year 2000. It is pertinent to point out that the documents, Annexure-D to Annexure-G, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above he was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.


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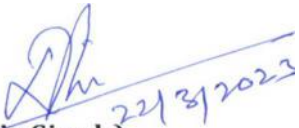

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25. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he has claimed allotment against the first floor. The documents, Annexure-A to Annexure-I, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. A-136 regarding which he has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

26. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/67/20.1.1/ 1512 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

27. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due complian


(Ranbir Singh) 22/3/2023

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(Sati h Ahlawat)


(Rachna Tiwary) 13/3/23

Jt. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BL. ORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 105 of 2022

Date of Institution: 22.11.2022

Date of Order: 23.03.2023

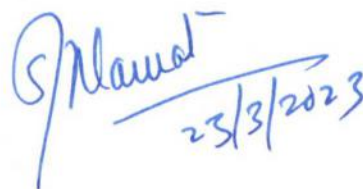
Present: Appellant/Claimant Ranjan Das Sb o Ratan Das

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-153, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to _LI Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-153 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/26/84.1/861 dated


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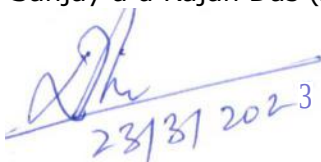

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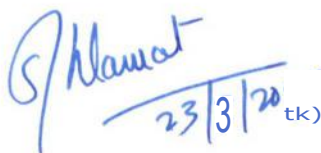
07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 105 of 2022 has been filed by the present Appellant/Claimant.

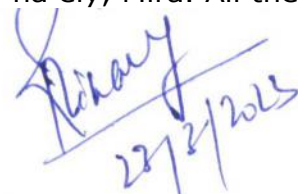
3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 03.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-N, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-153 was found to exist on the upper floor but he had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee (EDC) has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant has been recorded before us on 03.03.2023, wherein he has stated that his parents, Ratan Das & Maya, are having two sons, namely, Sanjay a d Rajan Das (Appellant/Claimant) and one daughter, na ely, Mira. All the


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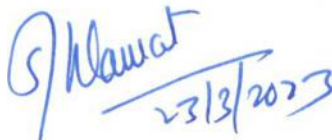

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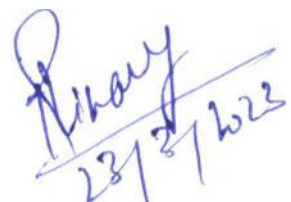

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Children except Sanjay are married. Ranjan Das is married with Pinki and having two children, namely, Ananya Das & Shivaansh. Mira is married with Arun.

8. The Appellant/ Claimant has stated that his sister Mira along with her husband Arun is living in Jhuggi No. A-207 Bhoomiheen Camp from her matrimonial side and they have got allotment from DDA against the said Jhuggi. These facts are not disputed by DDA.
9. The Appellant/ Claimant has stated that his family is having a double storey Jhuggi bearing No. C-153. His parents, Ratan Das & Maya, along with their unmarried son Sanjay are living on the ground floor of Jhuggi No. C-153 and regarding that DDA has made allotment in favour of Maya. These facts are not disputed by DDA.
10. The Appellant/ Claimant has further stated that he along with his wife Pinki Das & both the children, Ananya Das & Shivaansh, is living on the first floor of the said Jhuggi No. C-153. The Appellant/ Claimant has sought allotment from DDA. But his claim has been rejected by DDA and aggrieved by the same he has filed the present Appeal No. 105 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-N, and prayed that DDA be directed to make allotment in his favour.
11. DDA has furnished the survey records along with three video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 03.03.2023 wherein he has stated that in the first two video clips his father Ratan Das is seen standing in his Jhuggi on the ground floor and a room & kitchen is seen on the ground floor of Jhuggi No. C-153. Further in the second video clip Ratan Das is heard saying that Maya has gone out for work and he is getting the survey conducted on behalf of his wife Maya. In the third video clip Pinki W/o Ranjan Das (Appellant/Claimant) is seen standing in her Jhuggi on the first floor. She is heard saying that her husband Ranjan Das has gone out for work and she is getting the survey conducted on his behalf. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No C-153 was in existence in the Bhoomiheen Camp on the cut -off date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.


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2. Accordingly, we have no hesitation in holding that the Jhuggi No. C-153 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.
13. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
14. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-N, in support of his claim and prayed that DDA be directed to make allotment in his favour.
15. It is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate II dwellers of 11 Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card but having a joint Ration Card issued in the name of his mother, Maya. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/26/84.1/861 dated 07.11.2022.
16. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Pa rt-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of .1.1 dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the .1.1 dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. .1.1 dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the .1.1 cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencie ike PSU/Local Bodies.

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- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

17. As per Part—B Para 6 of DDA policy, dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18. As already pointed out above, condition contained in Part—B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

19. Thus Part—B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the

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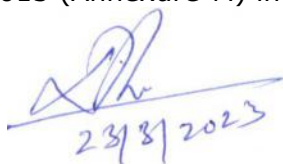
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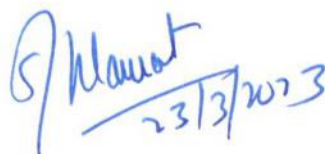
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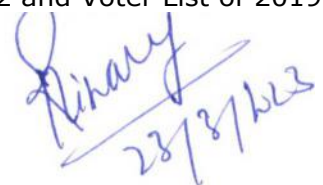
dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

- 20.** The bare perusal of the Policy shows that for claiming allotment for upper floor the 11 dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
- 21.** In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
- 22.** The Appellant/Claimant has tendered the Voter ID Card bearing number ARE 1171289 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter list of the year 2012 (Annexure-J), Voter list of the year 2013 (Annexure-K), Voter list of the year 2014 (Annexure-L), Voter list of the year 2015 (Annexure-M) and Voter list of the year 2019 (Annexure-N).
- 23.** It is pointed out that the Voter ID Card bearing number ARE 1171289 (Annexure-A) has been issued on 27.10.2008, much prior to the cutoff date of 01.01.2015. The Appellant/Claimant has also tendered the Voter list of the year 2012 (Annexure-J) in which his name appears at SI. No. 700 and the Voter list of the year 2013 (Annexure-K) in which his name appears at SI. No. 700, Voter List of 2014 (Annexure-L) in which his name appears on SI. No. 740, Voter list of 2015 (Annexure-M) in which his name appears on SI. No. 802 and Voter List of 2019

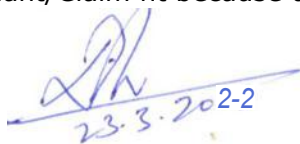

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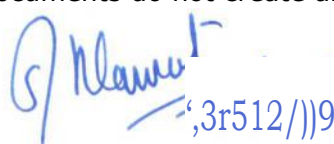

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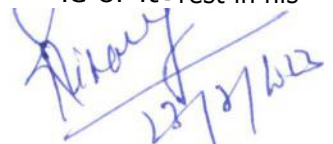

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(Annexure-N) in which his name appears on S. No. 794. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut -off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

24. The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. C-153 regarding which he has claimed allotment from DDA. The Appellant/Claimant has tendered his two joint Ration Cards (Annexure-G & Annexure-I). The old Ration Card (Annexure-H) has been issued on 24.05.2010 in the name of his father, Ratan, and in that the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. The new Ration Card (Annexure-I) has been issued on 08.11.2014 in the name of his mother, Maya, and in that the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor bearing No C-153 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.
25. The Appellant/ Claimant has also tendered the Voter ID Card No. ARE- 1165455 (Annexure-D) issued on 03.03.2022, Aadhar Card (Annexure-E) & Pan Card (Annexure-F) of his wife Pinki and the Electricity Bill (Annexure-G). The Voter ID Card No. ARE- 1165455 (Annexure-D) has been issued on 03.03.2022, much after the cutoff date of 01.01.2015. The Electricity Bill (Annexure-G) shows that the electricity connection has been taken by his father Ratan on 09.06.2008. The abovementioned documents are of no help to the Appellant/ Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above he was not having a separate Ration Card on the cut off date of 01.01.2015 in spite of the fact that he is claiming allotment against the upper floor.
26. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 in spite of the fact that he is claiming allotment against upper floor. The documents, Annexure-A to Annexure-N, are of no help to the Appellant/Claim nt because these documents do not create any right title or it - rest in his


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favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. C-153 regarding which he has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

27. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/26/84.1/861 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

28. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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Jt. Secretary (Retd.) GOI

MEMBER



(Satish Ahlawat)

Addl. District & Sessions Judge (Retd.)

CHAIRMAN



(Rachna Tiwary)

EXPERT MEMBER

BE. ORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF II DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 191 of 2022

Date of Institution: 23.11.2022

Date of Order: 23.03.2023

Present: Appellant/ Mamta Bar W/o Shakti Pada Bar

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. A-370, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of II Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-370 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/59/1.1/1155 dated


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07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 191 of 2022 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 06.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing A-370 was found to exist on the upper floor but she had failed to submit required documents, i.e., a separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The Appellant/Claimant has stated that her parents and brothers are living in West Bengal whereas she along with her husband Shakti & both the children, Sonali & Sumit, is living with


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her aunty Sandhya W/o Sameer in Jhuggi No. A-370 in Bhoomiheen Camp.

8. The Appellant/Claimant has stated that Sandhya is the sister of her mother Devla W/o Hare Krishna. Sandhya is having a double storey Jhuggi No. A-370 in Bhoomiheen Camp. Sandhya along with her family is living on the ground floor of the said Jhuggi No. A-370 and regarding that DDA has made allotment in favour of Sandhya against the ground floor of Jhuggi No. A-370. These facts are not disputed by DDA.
9. The Appellant/Claimant has stated that she along with her husband Shakti & both the children, Sonali & Sumit, is living on the first floor of the said Jhuggi No. A-370. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-370 but her claim has been wrongly rejected by DDA and aggrieved by the same she has filed the present Appeal for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-L, in support of her claim and prayed that DDA be directed to make alternative allotment in her favour as per the policy guidelines issued by DDA.
10. DDA has furnished the survey records along with two video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 06.03.2023 wherein she has stated that in one video clip her aunt Sandhya is seen on the ground floor of her Jhuggi No. A-370 and a room & a kitchen are seen and further in the same video a pucca staircase is seen going to the upper floor from the ground floor. Further in the second video clip she (Mamta- Appellant/Claimant) is seen in her Jhuggi on the first floor and one room & a kitchen are also seen in the same video clip. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. A-370 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.
11. Accordingly, we have no hesitation in holding that the Jhuggi No. A-370 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further the Appellant/ Claimant has been using the first floor of the said Jhuggi No. A-370 for residential purposes.

Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

13. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-L, in support of her claim and prayed that DDA be directed to make allotment in her favour.
14. It is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate ii dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/59/1.1/1155 dated 07.11.2022.
15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.


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4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The .1.1 dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. .1.1 dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible ii dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's 2me).

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- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the .1.1 dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

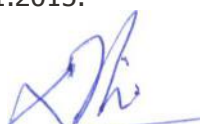
16. As per Part—B Para 6 of DDA policy, dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. The list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17. As already pointed out above, condition contained in Part—B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18. Thus Part—B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This makes it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.


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GIST OF THE POLICY

19. The bare perusal of the Policy shows that for claiming allotment for upper floor the 11 dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
20. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
21. The Appellant/Claimant has tendered her Voter ID Card No. ARE 1632603 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2014 (Annexure-K) and Voter List of the year 2019 (Annexure-L).
22. The Voter ID Card No. ARE 1632603 (Annexure-A) has been issued on 16.01.2013, much prior to the cutoff date of 01.01.2015. Her name appears at SI. No. 775 in the Voter List of the year 2014 (Annexure-K) and at SI. No. 992 in the Voter List of the year 2019 (Annexure-L). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
23. The Appellant/Claimant has tendered the Ration Card (Annexure-J) issued in her name on 10.05.2022, much after the cutoff date of 01.01.2015. Furthermore, in that Ration Card (Annexure-J) the name of her daughter Sonali is recorded but the names of her husband and son are conspicuously missing. But the fact remains that the Appellant / Claimant was not


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having a separate Ration Card on the cut off date of 01.01.2015 on the address of her Jhuggi on the first floor of Jhuggi bearing No. A-370 regarding which She is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

24. The Appellant/Claimant has tendered the Voter ID Card bearing number ARE 1632636 (Annexure-D), Aadhar Card (Annexure-E), Pan Card (Annexure-F) & Pass Book of PNB (Annexure-G) of her husband Shakti as well as her Pass Book of PNB (Annexure-H) and Electricity Bill (Annexure-I).
25. The Voter ID Card bearing number ARE 1632636 (Annexure-D) has been issued on 16.01.2013. The Pass Book of PNB (Annexure-G) shows that the account was opened on 17.11.2008 by her husband and the Pass Book of PNB (Annexure-H) shows that the account was opened on 20.07.2013 by her. The Electricity Bill (Annexure-I) shows that the connection was taken on 31.05.2008 by Sameer, who is the husband of her aunt Sandhya. The abovementioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above she was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she is claiming allotment against the upper floor.
26. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she has claimed allotment against the first floor. The documents, Annexure-A to Annexure-L, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. A-370 regarding which she has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.
27. The Appellant/Claimant has made misrepresentation and also futile attempt to suppress


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material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/59/1.1/1155 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

- 28.** Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

(Ranvir Singh)

it. Secretary (Retd.) GOI

MEMBER

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(Satish Ahlawat)

Addl. District & Sessions Judge (Retd.)

CHAIRMAN

Rachna Tiwary
23/3/23

(Rachna Tiwary)

EXPERT MEMBER

**BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS
GRIEVANCES RELATED TO DETERMINATION/ RELOCNMT1
DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, 3T.Ial.:KAT1.**

Appeal No: 21_6 of 2 3

Date of —

Date of 0t%f.: :;17.n3

Present: Appellant/ Claimant Satyawati W/o Pradeep Kumar D/o lagdisli

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, As::isfan ' '

ORDER

1. This order disposes off the present appeal filed by the Appell,:nt,/ order dated 07.11.2022 passed by the Eligibility Determination Com
2. In brief, the present Appellant/Claimant had made a Representation to til'7 Authority thereby alleging that she is living in Jhuggi bearing No. D-105, Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was im's"ed i:- Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be Cr)11:11:r1c,'; the said basti for determination/relocation of JJ Dwellers of Bhoomiheen mr Appellant/Claimant submitted representation to the Competent Authorit- j. requisite documents, thereby, alleging that she fulfills the eligibility criter;a. examining the representation for determination of eligibility it was o'nser-^(1 there was some deficiency in the requisite documents as per the policy guidei:n?s. this regard, Deficiency/ Call Letter was issued early in the year 2r,27 Appellant/Claimant thereby requesting for submission of required docum7..T.t7. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DOA site oit Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/C1aima7t an opportunity for submission of required documents. As per survey record, Cle Appellant/Claimant's Jhuggi bearing No. D-105 was found to exist on the iipY,Inr but she had failed to submit requisite documents as per the policy guidelines alternate allotment. Hence, the Eligibility Determination Committee has rcjcc: 'ecli claim of the present Appellant/Claimant for alternative allotment onri te Officer, Bhoomiheen Camp, duly communicated its order


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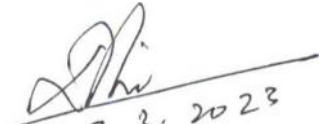
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385/64/80.1/1435 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 216 of 2023 has been filed by Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person or DDA is being represented by Sh. Prakash Chand, Dy. Director, and S. Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before Hs. The Appellant/Claimant has also tendered documents, Annexure-J] h) support of her claim. DDA has furnished the survey records and Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length. documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/Claimant bearing D-105 was found to exist on the upper floor but she had furnished required documents, i.e., a separate Ration Card as on 01.01.2015 as per guidelines for alternate allotment. Accordingly, **the** Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reason for rejection is mentioned to be "**Voter Card not Verified / / No Separate Ration Card for Upper Floor Jhuggi**" and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute **with regard to** the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/Claimant was having all the requisite documents, including Voter ID Card & separate **Ration Card**, on the date 01.01.2015 and further whether her name appears in the Voter List of the years 2013, 2014 and 2015 (prior to 01-01-2015) & of the **year of survey** and whether she is entitled to claim allotment against first floor as per **the policy** guidelines of DDA.


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7. "The statement of the Appellant/Claimant, Satyawati, has been recorded on 22.03.2023 wherein she has stated that her parents Jagdish & Janyma children, namely, Harish & Satyawati (A/C). Both the parents have died many years ago. Harish is married with Kamlesh and having two children, Thn -
8. The Appellant/Claimant has stated that her parents were having a house No. D-105 and it comprised of one room on each floor and there was a staircase placed outside in the gali for going to the upper floor.
9. The Appellant/Claimant has stated that her brother Harish along with his living on the ground floor of the said Jhuggi No. D-105 and regarding the allotment made in favour of Harish. These facts are not disputed by PDA.
10. The Appellant/Claimant has further stated that she along with her husband occupies the first floor of the said Jhuggi No. D-105. The Appellant/Claimant has obtained an allotment from DDA but her claim has been rejected by the Joint Committee and aggrieved by the same, she has filed the present writ petition on 22.03.2023. The Appellant/Claimant has tendered documents Annexure - A to D in support of her claim and prayed that DDA be directed to make an allotment in her favour.
11. DDA has furnished the survey record along with ten video clips. The videos were played before the Appellant/Claimant when her statement was recorded on 22.03.2023 wherein she has stated that in the first 5 videos, Harish is seen on the ground floor and his room/kitchen is also seen. Further, in the remaining 5 videos, the Appellant/Claimant, Satyawati is seen in the video clips on the first floor of the Jhuggi No. D-105 and her room & kitchen is also seen. An iron ladder placed in the gali for going to the upper floor is also seen.
12. Accordingly, we have no hesitation in holding that the Jhuggi No. D-1011 Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further the Appellant/Claimant & her husband are using the first floor of the said Jhuggi No. D-105 for residential purposes.

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13. Now we shall first appraise the material placed on file to determine as to whether Appellant/ Claimant was having all the requisite documents, including Voter ID Card a separate Ration Card, on the cutoff date of 01.01.2015 and further whether she appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (till 31.03.2015) & of the year of survey and whether she is entitled to occupy the first floor as per the policy guidelines issued by DDA.

14. The Appellant/ Claimant has stated that her claim has been wrongly rejected by the DDA. The Appellant/ Claimant has tendered documents, Annexure-A to support of her claim and prayed that DDA be directed to make allotment of alternative dwelling units to rehabilitation and relocate her to the first floor.

15. It is argued on behalf of DDA that Part-B Para 10 of "The Eligibility Criteria for Allotment of Alternative Dwelling Units to Rehabilitation and Relocation Policy" provides that if a person having a separate Ration Card issued prior to 01.01.2015, which fulfills all the eligibility criteria, is living on upper floor, the same will also be considered for allotment of separate dwelling units. Accordingly, for claiming allotment of alternative dwelling units, a dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment of alternative dwelling units to the first floor but she is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/64/80.1/1435 dated 07.11.2022.

16. First of all, we shall discuss the legal position under the DDA policy. The Part-B, Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by the Government of Delhi is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 10 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must have existed prior to 01-01-2006, the cut-off date of residence for becoming eligible for rehabilitation shall be 01-01-2015.


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3. The name of JJ dwellers must appear in at least on the VNI year's 2012, 2013, 2014 and 2015 (prior to 01-01-2019 a-7d year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey Department.
5. The JJ dweller(s) will be subjected to bio-metric ;:letbenljcn'(; '71 Aadhar Card or bio-metric identification by other mec¹.1.rizro.
6. JJ dwellers must possess any one of the 12 documents isF::e(: 01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family mcenity.'s any house/plot /flat in full or in part, in Delhi. The JJ dweller have been any house allotted any residential house or rr ft r license fee basis or on lease-hold basis or on free-hold basis in Delhi by any of the Department or Agencies of GNCTD of flw7:~. either in his/her own name or in the name of ,7..ny 111, M%1:7' family.
8. No dwelling unit shall be allotted if the jhuggi is commercial purpose.
9. In case, the jhuggi being used for both residential and orr,1)7: pti-i purposes can be considered allotment of one residential p: o' v. case, the ground floor of the jhuggi is being used for CC;7: ".`n.: purposes and other floors for residential purposes that w:II for one residential plot only, if such commercial and re.-3identi2l occupied by the same person.
10. If a different family, having separate Ration Card issued prior ;a r; 2015, which fulfills all the other eligibility criteria is living mi iir7r7 floor, the same will also be considered for allotment of a se Dac::e dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ clutcr a. tie time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above. then dwellers must possess zrizone 37 following documents issued before 01.01.2015 to becom,2 the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by stvte/ccntra? Government and /or its autonomous bodies/agencies like PSI.' Bodies.
- Passbook issued by public sector Bank/Post Office with ph ot
- SC/ST/OBC certificates issued by Competent Authority with
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow /depeeleeH certificate, old age pension order or widow pensio or. A


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- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph issued by Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of slum/JJ dwellers from Govt. School or certificate with photograph by the Principal of a Govt. School mentioning therein that the descendant of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY AS PER DDA POLICY

17. As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a y at?

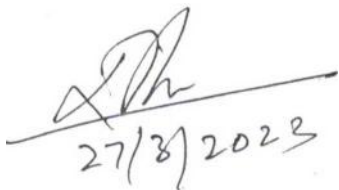
Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the sub-section. The list shows that the Ration Card is not prescribed to be a single member (family) but it is one of those 12 documents. The dweller may have any one of the out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

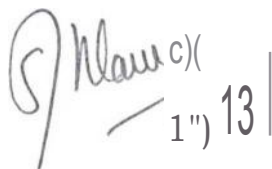
DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JITUGr4 POLICY

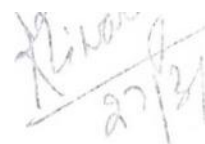
18. As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, fulfills all the other eligibility criteria is living on upper floor, the same shall be considered for allotment of a separate dwelling units."

19. Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card being a single mandatory document, must for the dweller claiming allotment against upper floor. This makes it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including a ration card issued before 01.01.2015. But the dweller claiming allotment against upper floor.


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any of such option to have any of the 12 documents but for him it is mandatory (, only one document, namely, ration card issued before 01.01.2015. Therefore, mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

20. The bare perusal of the Policy shows that for claiming allotment for upper dwellers must be a citizen of India and not less than 18 years of age and further that the name of the dwellers must appear in at least on the voter list of the years 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandated to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

21. In the light of our discussion above, we shall now appraise the material on record to determine as to whether the Appellant/ Claimant was having all the required documents, including a Voter ID Card & separate Ration Card, on the date 01.01.2015 and further whether his name appears in at least on the voter list of the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against first floor as per the guidelines issued by DDA.

22. The Appellant/Claimant has tendered her two Voter ID Cards bearing number DL/03/035/252515 (Annexure-A) and bearing number ARE 2587721 (Annexure-B), Aadhar Card (Annexure-C).

23. The Appellant/Claimant has tendered her two Voter ID Cards bearing number DL/03/035/252515 (Annexure-A) and bearing number ARE 2582781 (Annexure-B). The first Voter ID Card bearing number DL/03/035/252515 (Annexure-A) was issued on 24.02.1995, much prior to the cutoff date of 01.01.2015. The Appellant/Claimant has stated that the first Voter ID Card bearing


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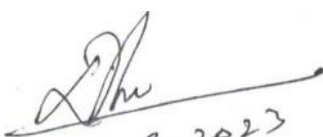
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DL/03/035/252515 (Annexure-A) was discontinued long ago disclosed the year of discontinuance. It is pointed out that the Appellant has not tendered the Voter List of the year's 2012, 2013, 2014 and 2015, & also of the year of survey, to show that she had casted her Voter ID Card bearing number DL/03/035/252515 (Annexure-A). Further, her Voter ID Card bearing number ARE 2582781 (Annexure-B) has been issued much after the cutoff date of 01.01.2015. But it has not been explained to why the Appellant/Claimant had got the second Voter ID Card bearing number ARE 2582781 (Annexure-B) issued on 10.02.2022 when she already has a Voter ID Card bearing number DL/03/035/252515 (Annexure-A) issued on 24.02.1995. This creates doubt & suspicion. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card as per the date of 01.01.2015 and her name also does not appear in at least on the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the Voter List. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfil the eligibility criteria as per the guidelines issued by DDA.

24. The Appellant/Claimant has admitted that she is not having a separate address of first floor of the Jhuggi No. D-105 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered the jeiridar (Annexure-F) issued on 03.07.1997 in the name of her father Jagdish Chandra, which includes the family members, including that of the present Appellant/Claimant, and is duly recorded. It is pertinent to point out that the Appellant/Claimant has specifically stated that the said Ration Card (Annexure-F) was discontinued and no new ration card has been issued in its place. The Appellant/Claimant has not disclosed the year of discontinuance of the Ration Card (Annexure-F). But the fact remains that the Appellant/Claimant is not having a separate Ration Card on the address of the Jhuggi No. D-105 regarding which she is claiming allotment from PTV. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfil the eligibility criteria as per the guidelines issued by DDA, which make possession of Ration Card mandatory for the upper floor.

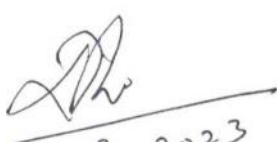
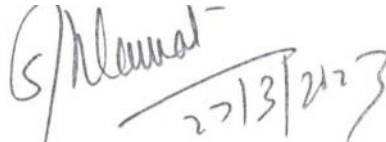
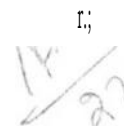
25. The Appellant/Claimant has tendered her Pass Book of Union Bank (Annexure-D), Electricity Bill (Annexure-E) and the Aadhar Cards (Annexure-GA). Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfil the eligibility criteria as per the guidelines issued by DDA, which make possession of Ration Card mandatory for the upper floor.



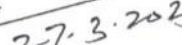
children, Arpita & Aditya. The Pass Book of Union Bank (Annexure-D) account was opened by the Appellant/Claimant on 02.09.2014. The Electricity (Annexure-E) shows that the electricity connection has been taken by Jagdish on 05.06.2008 thereby showing that the Appellant/Claimant was having electricity connection on the address of first floor of the jhuggi No. D-105 which she is claiming allotment from DDA. The above mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right or interest in her favour to claim allotment from DDA because as per our decision above she was not having a separate Ration Card on the cut off date of 01.01.2015 in spite of the fact that she is claiming allotment against the upper floor.

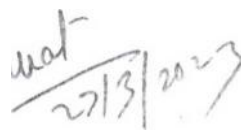
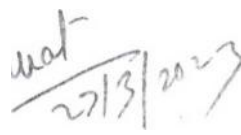
26. The material placed on file shows that the Appellant/ Claimant was not having an ID Card on the cut off date of 01.01.2015 and her name also does not appear on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) in the year of survey and further she was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of first floor of the jhuggi No. D-105 which she is claiming allotment from DDA. The documents, Annexures D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Z are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. In view of the above, I have no hesitation in holding that the Appellant/ Claimant was not having a Ration Card on the cut off date of 01.01.2015 and her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) in the year of survey and further she was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of first floor of the Jhuggi No. D-105 which she is claiming allotment from DDA. Therefore, Appellant/ Claimant does not satisfy the eligibility criteria as per the guidelines issued by DDA.

27. The Appellant/ Claimant has made misrepresentation and also tried to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/64/80.1/1435 dated 07.11.2022. Hence the same is dismissed. Consequently, the present appeal is dismissed being devoid of any merit.

2ELCopy of this order be supplied to both the parties as per rules wflhi 'v-
the date of passing of this order. DDA is further directed to post Cis
website within one week from today in compliance of order dated 10.10.2018
by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal
titled "National Alliance of Peoples Movement & Others Vs nH
Authority & Others". The file be consigned to records after due compli

(R  ir Sin 

(Satish Ahlawat)  

Jt. Secretary (Retd.) GOI

Addl. District & Sessions Judge (/Pt'

MEMBER

CHAIRMAN

BtRORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JI DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 246 of 2023

Date of Institution: 23.11.2022

Date of Order: 27.03.2023

Present: Appellant/Claimant Sikha W/o Raj Shek

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. B-632, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of 11 Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-632 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 85/86/10.G/1696 dated

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07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 246 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 17.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-632 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015.

7. The statement of the Appellant/Claimant has been recorded before us on 17.03.2023, wherein she has stated that her in-laws lived in West Bengal and have expired long back. She is living in Jhuggi No. B-632, Bhoomiheen Camp along with her husband, Raj Shek, and having three children, namely, Rekha, Roni & Sulekha.
8. The Appellant/Claimant has stated that she is having a double stor d Jhuggi No. B-632 in


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Bhoomiheen Camp Kalkaji. Ground floor is used for residential purposes whereas the first floor is used as a kitchen.

9. The Appellant/Claimant has sought allotment against the ground floor of the said Jhuggi No. B-632 but her claim has been wrongly rejected by DDA and aggrieved by the same she has filed the present Appeal No. 246 of 2023 for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-I, in support of her claim and prayed that DDA be directed to make alternative allotment in her favour as per the policy guidelines issued by DDA.
10. DDA has furnished the survey records along with 9 video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 17.03.2023 wherein she has stated that in the video clips she (Sikha- Appellant/Claimant) is seen in her Jhuggi on the ground floor. The video clip of the first floor was not prepared by the survey team. But there is nothing to disbelieve the statement of the Appellant/Claimant to the effect that the her Jhuggi Jhuggi No. B-632 was a double storey structure. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. B-632 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the ground floor of the said Jhuggi for residential purposes and the first floor was used as kitchen.
11. Accordingly, we have no hesitation in holding that the four storey Jhuggi No. B-632 in Bhoomiheen Camp is a pucca double storey structure and the Appellant/Claimant is using the ground floor of the said Jhuggi for residential purposes and the first floor is used as kitchen.
12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.
13. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-I, in support of her claim and prayed that DDA be directed to make allotment in her favour.

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14. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

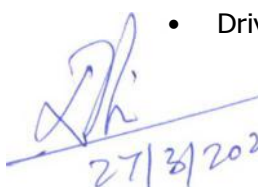
"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.


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- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the ii dwellers was the student of the School."

15. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of .1.1 dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

16. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

17. The Appellant/Claimant has tendered her two Voter ID Cards bearing number ARE 2281327 (Annexure-A & Annexure-A/1), Aadhar Card (Annexure-B) and PAN Card (Annexure-F).

18. It is pointed out that both the Voter ID Cards are bearing the same number, i.e., ARE 2281327 and have been issued on the address of Jhuggi No. B-632. The first Voter ID Card (Annexure-A) has been issued on 18.01.2020, much after the cut off date of 01.01.2015. The


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second Voter ID Card (Annexure-A/1) has been issued on 28.04.2022, much after the cut off date of 01.01.2015. Therefore, the question of her name appearing in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

19. The Appellant/ Claimant has admitted that she is not having a separate Ration card on the address of the first floor of the said Jhuggi No. B-632 regarding which she is claiming allotment from DDA. Thus the fact remains that the Appellant/ Claimant is not having a separate Ration card and also she is not having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.
20. The Appellant/Claimant has also tendered Aadhar Card (Annexure-C) & Voter ID Card (Annexure-I) of her husband Raj Shek, Aadhar Cards (Annexure-D & Annexure-E) of her children, Roni & Sulekha, her Pass Book of ESAF (Annexure-G), Electricity Bill (Annexure-H).
21. It is pointed out that the Voter ID Card (Annexure-I) of her husband Raj Shek has been issued on 13.12.2021, much after the cut off date of 01.01.2015. This also shows that the Appellant/ Claimant as well as her husband, Raj Shek, were not having a valid Voter Id Cards on the cutoff date of 01.01.2015. Further, her Pass Book of ESAF (Annexure-G) shows that the account was opened on 21.01.2021, much after the cut off date of 01.01.2015. The Electricity Bill (Annexure-H) shows that the connection has been taken by the Appellant/ Claimant on 03.03.2020, much after the cut off date of 01.01.2015. The abovementioned documents, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.





22. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents, Annexure-A to Annexure-I, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.
23. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/86/10.G/1696 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.
24. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.



(Ra ir Singh,

Jt. Secretary (Retd.) GOI
MEMBER



(Satish Ahlawat)

Addl. District & Sessions Judge (Retd.)
CHAIRMAN



(Rachna Tiwary)

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 214 of 2023

Date of Institution: 23.11.2022

Date of Order: 28.03.2023

Present: Appellant/ Claimant Pankaj Kumar Sb o Virendra Sah

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. D-580, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to 11 Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. D-580 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/64/55.1/1425 dated


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07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 214 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 23.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing D-580 was found to exist on the upper floor but she had failed to submit required documents, i.e., a separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card not Verified / / No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The Appellant/Claimant has stated that his parents, Virendra & Sheela, are having three sons, namely, Pankaj (Appellant / Claimant), Chandan and Rajnikant. All the children are

married. Both the parents are living in Bihar. Chandan is married with Kalpana and Rajnikant is married with Kajal and both of them along with their respective families are living in Bihar. Pankaj is married with Sanju and having three children, namely, Saakshi, Ayush and Anshu.

8. The Appellant/Claimant has stated that he is living in Bhoomiheen Camp with his distant relative Chandan S/o Nand Kishore in a double storey Jhuggi No. D-580 and it comprises of one room on each floor and also having a pucca staircase.
9. The Appellant/Claimant has stated that the said Chandan Sic) Nand Kishore is living on the ground floor of Jhuggi No. D-580 and regarding that DDA has made allotment in favour of Chandan. These facts are not disputed by DDA.
10. The Appellant/Claimant has also stated that he along with his family is living on the first floor of the said Jhuggi bearing Jhuggi No. D-580. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. D-580 but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make alternative allotment in his favour as per the policy guidelines issued by DDA.
11. DDA has furnished the survey records along with six video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 23.03.2023 wherein he has stated that in the two video clips of ground floor Chandan is seen in his Jhuggi on the ground floor and a room & kitchen are also seen. Whereas in the other four video clips he (Pankaj- Appellant/Claimant) is seen in his Jhuggi on the first floor of jhuggi bearing No. D-580 and a room and a kitchen are also seen. Further a pucca staircase going from the ground floor to the first floor is also seen in these video clips. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca double storey Jhuggi bearing Jhuggi No D-580 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/ Claimant has used the first floor of the said Jhuggi for residential purposes.
12. Accordingly, we have no hesitation in holding that the Jhuggi No. D-580 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much nor to the cutoff date

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of 01.01.2015 and further the Appellant/ Claimant has been using the first floor of the said Jhuggi No. D-580 for residential purposes.

13. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
14. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make allotment in her favour.
15. It is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/64/55.1/1425 dated 07.11.2022.
16. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and 11 Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The 11 dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-201


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3. The name of ii dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the A dwellers must appear in the survey conducted by LM Department.
5. The 11 dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. 11 dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the 11 dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The A dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible A dwellers will be removed from the A cluster at the time of its rehabilitation /relocation/clearance of A Basti.

As envisaged in para above, the B dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.



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- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the .1.1 dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

17. As per Part—B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18. As already pointed out above, condition contained in Part—B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

19. Thus Part—B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming

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allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

- 20.** The bare perusal of the Policy shows that for claiming allotment for upper floor the 11 dwellers must be a citizen of India and not less than 18 years of age and further also that the name of .1.1 dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
- 21.** In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
- 22.** The Appellant/Claimant has tendered his two Voter ID Cards bearing number ARE 2236651 (Annexure-A) and bearing number ARE 2606846 (Annexure-B), Aadhar Card (Annexure-C) & Pan Card (Annexure-D).
- 23.** The Appellant/Claimant has tendered his two Voter ID Cards bearing number ARE 2236651 (Annexure-A) and bearing number ARE 2606846 (Annexure-B). The Appellant/Claimant has failed to explain the reasons for getting two Voter ID Cards issued. This creates doubt & suspicion. It is pointed out that the first Voter ID Card bearing number ARE 2236651 (Annexure-A) has been issued on 16.03.2019, much after the cutoff date of 01.01.2015. Further the second Voter ID Card bearing number ARE 2606848 (Annexure-B) has been issued on 18.11.2022, much after the cutoff date of 01.01.2015. Both the voter ID Cards bearing number ARE 2236651 (Annexure-A) and bearing number ARE 2606848 (Annexure-B) have been issued much after the cutoff date of 01.01.2015 and accordingly the question

of his name appearing in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, does not arise. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

24. The Appellant/Claimant has tendered the Ration Card (Annexure-L) issued in the name of his wife Sanju on 11.10.2014 and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. Thus the fact remains that the Appellant/Claimant is having a separate Ration Card on the address of the Jhuggi No. D-580 regarding which he is claiming allotment from DDA.

25. The Appellant/Claimant has tendered the Voter ID Card bearing number ARE 2236974 (Annexure-E), Aadhar Card (Annexure-F) of her wife Sanju as well as the Aadhar Cards (Annexure- G to Annexure-I) of his children, Sakshi, Ayush & Anshu, Passport (Annexure-J) and Pass Book of Union Bank (Annexure-K).

26. The Voter ID Card bearing number ARE 2236974 (Annexure-E) has been issued on 16.03.2019, much after the cutoff date of 01.01.2015. This shows that neither the Appellant/Claimant nor his wife were having Voter ID Card on the cutoff date of 01.01.2015. The Passport (Annexure-J) has been issued on 02.11.2021, much after the cutoff date of 01.01.2015. The Pass Book of Union Bank (Annexure-K) shows that account was opened by the Appellant/Claimant on 09.02.2021, much after the cutoff date of 01.01.2015. The abovementioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

27. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and his name also does not app r in at least on the

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voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents, Annexure-A to Annexure-L, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

28. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/64/55.1/1425 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.
29. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

 (Raghav Singh) it. Secretary (Retd.) GOI MEMBER	 (Sush Ahlawat) Addl. District & Sessions Judge (Retd.) CHAIRMAN	 (Rachna) EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JI DWELLERS OF BHOOIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 275 of 2023

Date of Institution: 25.11.2022

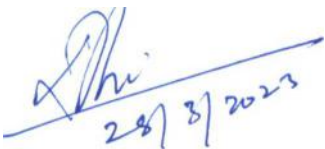
Date of Order: 28.03.2023

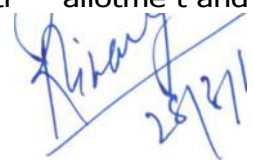
Present: Appellant/Claimant Kailash Chand S/o Kali Charan

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-268, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to .1.1 Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-268 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternate allotment and the

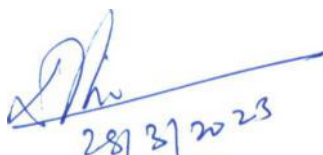

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Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/37/32.1/1003 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 275 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 21.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-268 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.


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7. The statement of the Appellant/Claimant, Kailsah Chand, has been recorded before us on 21.03.2023, wherein he has stated that his parents, Kali Charan & Urmila, are having two sons, namely, Gaurav and Kailash (Appellant/Claimant) and two daughters, namely, Usha & Saraswati. All the children except Gaurav are married. Usha & Saraswati are living in their respective matrimonial homes in Buradi and Govindpuri. Kailsah Chand (Appellant/Claimant) is married with Shankari and having two children, Payal & Dhruv.
8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. C-268 and it comprises of one room on each floor and an iron ladder is used for going to the first floor. His Parents Kali Charan and Urmila along with their unmarried son Gaurav are living on the ground floor of Jhuggi No. C-268. The Appellant/Claimant has stated that DDA has made allotment in favour of his mother Urmila. These facts are not disputed by DDA.
9. The Appellant/Claimant has stated that he along with his wife Shanakri & children has been living on the first floor of Jhuggi No. C-268 in Bhoomiheen Camp. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi but his claim has been rejected and accordingly aggrieved by the same he has filed the present Appeal No. 275 of 2023 before the Appellate Authority. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make alternative allotment in his favour as per the policy guidelines issued by DDA.
10. DDA has furnished the survey records along with two video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 21.03.2023 wherein he has stated that in the first video clip his mother Urmila is seen standing in her Jhuggi on the ground floor and her room & kitchen are also seen. In the next video clip he (Kailash- Appellant/Claimant) is seen in his Jhuggi on the first floor. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey pucca Jhuggi No. C-268 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.

11. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-268 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.
12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
13. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make allotment in his favour.
14. It is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of ii Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is having a joint Ration Card with his mother, Urmila. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/37/32.1/1003 dated 07.11.2022.
15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and Ji Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.

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2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of ii dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The ii dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible 11 dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of Ji Basti.

As envisaged in para above, the Ji dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/depend t certficate, old age pension order or widow pension order.

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28/3/2013

K. K. Singh
28/3/2013

- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the .1.1 dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor)AS PERDDA POLICY

16. As per Part—B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17. As already pointed out above, condition contained in Part—B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18. Thus Part—B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it • manda ory for he

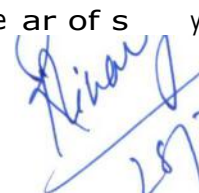
dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

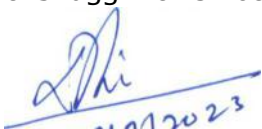
19. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
20. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
21. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 118213 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), the Voter List of the year 2012 (Annexure-J) and the Voter List of the year 2019 (Annexure-K).
22. The Appellant/Claimant has tendered the Voter ID Card bearing number ARE 118213 (Annexure-A), which has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. It is pointed out that the name of the Appellant/Claimant appears at SI. No. 131 in the Voter List of the year 2012 (Annexure-J) and at SI. No. 172 in the Voter List of the year 2019 (Annexure-K) and in both the Voter lists it is mentioned that the Appellant/Claimant was having the Voter ID Card bearing number ARE 118213. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and his name also appears in at least on the Voter List of the year's 012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the ar of s y.


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23. The Appellant/ Claimant has admitted that he is not having a separate Ration card on the address of the first floor of the said Jhuggi No. C-268 regarding which he is claiming allotment from DDA. He has tendered Joint Ration Card (Annexure-I), which has been issued on 12.05.2014 in the name of his mother Urmila and in that the names of the family members, including that of the present Appellant/ Claimant, have been mentioned. But the fact remains that the Appellant/ Claimant is not having a separate Ration card despite of the fact that he is claiming allotment against the upper floor. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.
24. The Appellant/Claimant has tendered his Driving License (Annexure-D) as well as the Aadhar Card (Annexure-E) & Pan Card (Annexure-F) of his wife Shankari and the Electricity Bill (Annexure-G) and his Bank Pass Book of Allahabad Bank (Annexure-H).
25. It is pointed out that the Driving License (Annexure-D) has been issued on 20.11.2015. The Electricity Bill (Annexure-G) shows that the connection has been taken in the name of his father Kali Charan on 17.05.2008. The bank Pass Book of Allahabad Bank (Annexure-H) shows that the Appellant/ Claimant has opened the account but the date of opening of account is not mentioned. The documents, Annexure-D to Annexure-H, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above he was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.
26. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against upper floor. The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. C-268 regarding which he has claimed allotment from DDA. Therefore, the Appellant/ Claimant is not eligible for allotment of a separate Ration Card on the upper floor of the said Jhuggi No. C-268. The Appellant/ Claimant is directed to obtain a separate Ration Card on the upper floor of the said Jhuggi No. C-268 at his own cost and to submit the same to the DDA for consideration. The Appellant/ Claimant is directed to pay the charges for the Ration Card to the DDA. The Appellant/ Claimant is directed to pay the charges for the Ration Card to the DDA. The Appellant/ Claimant is directed to pay the charges for the Ration Card to the DDA.


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Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor

27. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/37/32.1/1003 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.
28. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.


(Ranbir Singh)


(Satis Ahlawat)


(Rachna Tiwary)

Jt. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

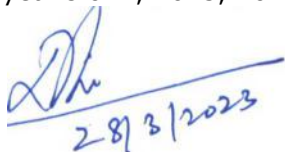
GIST OF THE POLICY

19. The bare perusal of the Policy shows that for claiming allotment for upper floor the II dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

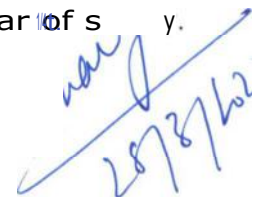
20.1n the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

21. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 118213 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), the Voter List of the year 2012 (Annexure-J) and the Voter List of the year 2019 (Annexure-K).

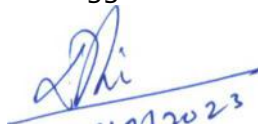
22. The Appellant/Claimant has tendered the Voter ID Card bearing number ARE 118213 (Annexure-A), which has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. It is pointed out that the name of the Appellant/Claimant appears at SI. No. 131 in the Voter List of the year 2012 (Annexure-1) and at SI. No. 172 in the Voter List of the year 2019 (Annexure-K) and in both the Voter lists it is mentioned that the Appellant/Claimant was having the Voter ID Card bearing number ARE 118213. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and his name also appears in at least on the Voter List of the year's 012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the ar of s y.

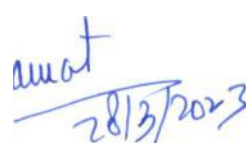

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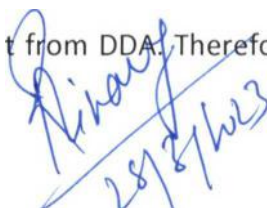

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23. The Appellant/ Claimant has admitted that he is not having a separate Ration card on the address of the first floor of the said Jhuggi No. C-268 regarding which he is claiming allotment from DDA. He has tendered Joint Ration Card (Annexure-I), which has been issued on 12.05.2014 in the name of his mother Urmila and in that the names of the family members, including that of the present Appellant/ Claimant, have been mentioned. But the fact remains that the Appellant/ Claimant is not having a separate Ration card despite of the fact that he is claiming allotment against the upper floor. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.
24. The Appellant/Claimant has tendered his Driving License (Annexure-D) as well as the Aadhar Card (Annexure-E) & Pan Card (Annexure-F) of his wife Shankari and the Electricity Bill (Annexure-G) and his Bank Pass Book of Allahabad Bank (Annexure-H).
25. It is pointed out that the Driving License (Annexure-D) has been issued on 20.11.2015. The Electricity Bill (Annexure-G) shows that the connection has been taken in the name of his father Kali Charan on 17.05.2008. The bank Pass Book of Allahabad Bank (Annexure-H) shows that the Appellant/ Claimant has opened the account but the date of opening of account is not mentioned. The documents, Annexure-D to Annexure-H, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above he was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.
26. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against upper floor. The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. C-268 regarding which he has claimed allotment from DDA. Therefore,


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Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor

27. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/37/32.1/1003 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

28. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.


(Ranbir Singh)


(Satis Ahlawat)


(Rachna Tiwary)

Jt. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

**BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE
GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ
DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.**

Appeal No: 505 of 2023

Date of Institution: 02.12.2022

Date of Order: 28.03.2023

Present: Appellant/ Claimant Hare Kishan S/o Udai Ghosh

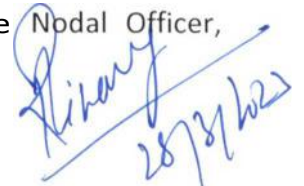
Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-633, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-633 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the

Nodal Officer,

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Bhoomiheen Camp, duly communicated its order bearing No. 385/10/84.G/712 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 505 of 2023 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
4. The statement of the Appellant/Claimant has been recorded before us on 20.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-633 was found to exist on the upper floor but he had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee (EDC) has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

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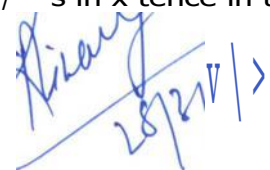
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7. The statement of the Appellant/ Claimant, Hare Kishan, has been recorded before us on 20.03.2023, wherein he has stated that his parents, Uday Ghosh & Charu, are having two sons, namely, Madan & Hari Kishan (Appellant/ Claimant). Uday Ghosh had expired about 45 years ago and Charu had died about 40 years ago. Both the children are married. Madan was married with Arti and having one daughter, Beena. Beena is married with Sunil but after marriage both of them are living with her parents in Bhoomiheen Camp. Madan had expired in the year 2016. Whereas Hari Kishan (Appellant/ Claimant) is married with Geeta and having three sons, Pranay, Ushant & Dhruv.
8. The Appellant/ Claimant has stated that his family is having a triple storey Jhuggi No. B-633. His brother Madan along with his wife Arti and the family of daughter Beena is living on the ground floor of the said Jhuggi No. B-633 and regarding that DDA has made allotment in favour of Arti. These facts are not disputed by DDA.
9. The Appellant/ Claimant has further stated that he along with his wife Geeta & three children, Pranay, Ushant, Dhruv & Hans is living on the first floor of the said Jhuggi No. B-633. The Appellant/ Claimant has sought allotment from DDA. But his claim has been rejected by DDA and aggrieved by the same he has filed Appeal No. 505 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-L, and prayed that DDA be directed to make allotment in his favour.
10. DDA has furnished the survey records along with two video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 07.03.2023 wherein he has stated that in the first three video clip his sister—in-law, Arti, along with her daughter, Beena, is seen standing in the room on her ground floor, a room and kitchen are also seen in theses videos and a bamboo ladder is seen going from the ground floor to the upper floor. Further in the next 6 video clips of the first floor he (Hare Kishan- Appellant/Claimant) is seen standing in the room on the first floor and a room & kitchen are also seen. Further in the same video clips Beena is also seen standing in her room on the second floor and a pucca staircase going from first to second floor is also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. B-633 / s in x tence in the



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Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.

11. Accordingly, we have no hesitation in holding that the Jhuggi No. B-633 in Bhoomiheen Camp is a pucca triple storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.
12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
13. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make allotment in his favour.
14. It is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate 11 dwellers of II Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card but having a joint Ration Card issued in the name of his sister-in-law, Arti. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/ 0/84.G/712 dated 07.11.2022.

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15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.

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- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/Ji dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

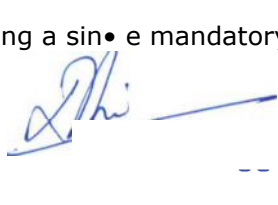
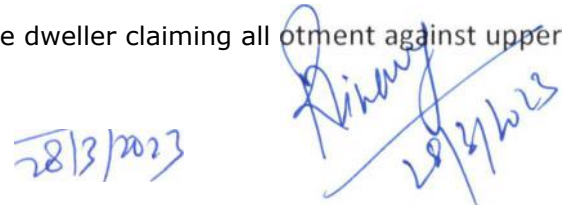
16. As per Part—B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17. As already pointed out above, condition contained in Part—B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18. Thus Part—B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper

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floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

19. The bare perusal of the Policy shows that for claiming allotment for upper floor the 11 dwellers must be a citizen of India and not less than 18 years of age and further also that the name of ii dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
20. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
21. The Appellant/Claimant has tendered his two Voter ID Cards bearing number DL/03/035/246221 (Annexure-A) and second Voter ID Card No. ARE-1162197 (Annexure-B), Aadhar Card (Annexure-C), Pan Card (Annexure-D), Voter List of the year 2014 (Annexure-K) and Voter List of the year 2019 (Annexure-L).
22. The Appellant/Claimant has tendered his two Voter ID Cards. The first Voter ID Card bearing number DL/03/035/24621 (Annexure-A) has been issued on 15.03.1995 and the second Voter Card No. ARE-1162197 (Annexure-B) has been issued on 07.10.2008, much

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prior to the cutoff date of 01.01.2015. The name of the Appellant/Claimant appears at SI. No. 1069 in the Voter List of the year 2014 (Annexure-K) and at SI. No. 1107 in the Voter List of the year 2019 (Annexure-L). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23. The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. B-633 regarding which he has claimed allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-J) issued in the name of his mother sister-in-law, Arti wido of Madan, and in that the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor bearing No. B-633 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

24. The Appellant/ Claimant has also tendered his Driving License (Annexure-E), ESIC certificate (Annexure-F), Voter ID Card No. CXY 1075704 (Annexure-G) & Aadhar Card (Annexure-H) of his wife Geeta, the Electricity Bill (Annexure-I). It is pointed out that the Driving License (Annexure-E) has been issued on 01.06.2018 and the ESIC certificate (Annexure-F) does not bear the date of issuance. The Voter ID Card No. CXY 1075704 (Annexure-G) has been issued on 7.03.2002. The Electricity Bill (Annexure-I) shows that the electricity connection has been taken by the Arti on 14.09.2018. It is pertinent to point out that the abovementioned documents are of no help to the Appellant/ Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above he was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

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25. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against upper floor. The documents, Annexure-A to Annexure-L, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. B-633 regarding which he has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

26. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/10/84.G /712 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

27. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.



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(Ranjit Singh) 27,

(Satis Ahlawat)

(Rachna Tiwary

it. Secretary (Retd.) GOI Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

**BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE
GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ
DWELLERS OF BHOOIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.**

Appeal No: 154 of 2022

Date of Institution: 23.11.2022

Date of Order: 16.01.2023/29.03.2023

Present: Appellant/ Claimant Mangal Karan S/o Lakhan Karan

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. DDA has placed on file the copy of order dated 23.02.2023 passed by the Hon'ble High Court of Delhi in W.P. (C) 2352/2023 & CM APPL. 8998/2023, 9000/2023 titled "Mangal Karan versus Delhi Development Authority & ANR" before us on 02.03.2023.
2. The file of Appeal No. 154 of 2022 was also summoned by us from the record room. The perusal of the same shows that Mangal Karan S/o Lakhan Karan had sought allotment from DDA against Jhuggi No. B-656, Bhoomiheen Camp. But the Eligibility Determination Committee had rejected his claim for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/10/43.G/696 dated 07.11.2022 to him. Aggrieved by the same, the Appellant/Claimant, Mangal Karan S/o Lakhan Karan, had filed the Appeal No. 154 of 2022 before this Appellate Authority.
3. The Appellant/ Claimant as well as DDA had furnished evidence in support of their respective claim/stand. But the said Appeal No. 154 of 2022 was dismissed on merit by us vide order dated 16.01.2023 as it was found that the Appellant/ Claimant did not fulfill the eligibility criteria as per guidelines issued by DDA and consequently the impugned rejection order bearing No. 385/10/43.G/696 dated 07.11.2022 was upheld.
4. The Appellant/Claimant, Mangal Karan S/o Lakhan Karan had challenged the order dated 16.01.2023 before the Hon'ble High Court of Delhi by filing the above referred W.P. (C) 2352/2023 & CM APPL. 8998/2023, 9000/2023 titled "Mangal Karan versus Delhi Development Authority & ANR".

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5. The Hon'ble High Court has fixed the matter for 11.04.2013, thereby, directing us to submit our findings *"on the entry of the address of the Jhuggi in the pass book and its relevance"* on or before the next date of hearing. The operative Paras 5 to 11 of order dated 23.02.2023 passed by the Hon'ble High Court are reproduced as under: -

"5. This court deems it appropriate to direct the petitioner to produce before the Appellate Authority, the record of the said bank account maintained with the Bank including the account opening form filled by the petitioner. The Bank in question is Central bank of India, branch at 24-A, Nizamuddin West, Mathura Road, Delhi-110013.

6. The concerned Bank Manager of the aforesaid branch of Central bank of India is directed to provide a true copy of the bank account record to the Petitioner herein, as well as produce the original record, if so, directed by the Appellate Authority, before them through their clerk.

7. The concerned bank manager is directed to provide copy of the documents submitted by the Petitioner to the bank with respect to the address, at the time of account opening form. The bank may also explain the relevance of the date of 29.09.2014 appearing on the passbook and the date on which the address B-656, G/F, Bhoomiheen Camp, Govindpuri, Alaknanda, Kalkaji, South Delhi, Delhi was entered in the records of the Bank.

8. Learned counsel for the Petitioner had requested for a date of hearing before the Appellate Authority aftc; 15.03.2023.

9. In these facts, the Appellate Authority is requested to take up this matter as per its convenience on any date after 15.03.2023 to consider the passbook of the Petitioner as well as any other document issued by the concerned bank.

10. Learned counsel for the Respondent, DDA, states that he as well shall verify the DDA's record and apprise the Appellate Authority as well as this court, with respect to rival claim, if any, received for the same jhuggi from any other resident. This will be done to verify there is no duplication of claims in the matter.

11. The Appellate Authority is requested to communicate its finding on the entry of the address of the jhuggi in the passbook and its relevance on or before the next date of hearing to this court."

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6. In compliance of the directions given by the Hon'ble High Court it was directed by us that the matter be fixed before us on 17.03.2023 for conducting fact-finding enquiry thereby giving a notice to the Appellant/Claimant, Mangal Karan S/o Lakhan Karan and also a letter was sent to the Branch Manager, Central Bank of India, branch at 24-A, Nizamuddin West, Mathura Road, Delhi - 110013 to produce the original record, including the account opening form, as well as the documents submitted to the bank with respect to the address, pertaining to the account maintained by Mangal Karan S/o Lakhan Karan before us on the date fixed.
7. The statement of Mangal Karan (Appellant/Claimant), Parmanand Jha, Branch Manager, Central Bank of India, Nizamuddin Branch, Delhi and Lokesh Meena, Assistant Director, DDA have been recorded before us on 17.03.2022. Parmanand Jha has tendered document, Annexure-X whereas Mangal Karan has also tendered documents, Annexure-Y, Annexure-Z & Annexure-Z/1.
8. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
9. It is the admitted fact that Mangal Karan S/o Lakhan Karan has sought allotment from DDA against Jhuggi No. B-656, Bhoomiheen Camp. Lokesh Meena, Assistant Director, for DDA has categorically stated that there is no rival claim against Jhuggi No. B-656, Bhoomiheen Camp. Thus DDA has received only one claim from Mangal Karan for seeking alternate allotment against Jhuggi No. B-656, Bhoomiheen Camp.
10. Parmanand Jha has stated that as per the bank policy the account can be opened in favour of any person of the age of 12 years and above. The Account No. 3393193570 of Mangal Karan was opened in the bank on 29.04.2014 on the introduction of Capt. P Chopra R/o D-1, Nizamuddin East, New Delhi, Phone No. 9818029295 and along with the Account Opening Form, the Domestic Servant/Employee Verification Form carrying the seal of P.S. Nizamuddin was also attached. But, Mangal Karan had not submitted any of his documents in support of the address but instead he had submitted the Voter ID No. ARE 1163429 dated 05.03.2014 of his brother-in-law Deepak Pramanik S/o Basudev Pramanik R/o B-677, Block B, Bhoomiheen Camp.



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11. Parmanand Jha has also stated that with regard to the proof of age and address no other documents were taken by the bank and thereby considering the documents submitted with bank "Account Opening Form" and accepting the genuineness of all the information to be true, the account was opened by his predecessor on 29.09.2014. The information supplied by Mangal Karan about his age & address was not verified as his form was introduced by one of the premier customer of the bank and solely on the basis of information/documents provided in the "Account Opening Form" the address and date of birth of Mangal Karan has been mentioned to be "Jhuggi N. B-677, Bhoomiheen Camp" and "20.02.1998" in the bank record.
12. The statement of Mangal Karan shows that his correct date of birth is 12.05.1997. Further, in his Voter ID Card ARE 2281012 (Annexure-A), Aadhar Card 9924 3364 5537 (Annexure-B), Pan Card (Annexure-C) and Driving license (Annexure-D) his date of birth has been correctly recorded to be 12.05.1997. Mangal Karan has also categorically admitted that he had wrongly mentioned his date of birth to be 20.02.1998 in the "Account Opening Form" (Annexure-X) and accordingly in the bank records pertaining to his Account No. 33931935570, opened with Central Bank of India, Nizamuddin Branch, Delhi on 22.09.2014 his date of birth has been wrongly recorded to be 20.02.1998 instead of his correct date of birth of 12.05.1997.
- 13. The** statement of Mangal Karan also shows that his real sister, Disha is married with Deepak Pramanik. Mangal Kiran is unmarried and he had lived with Deepak Parmanik in his Jhuggi No. B-677, Bhoomiheen Camp up to 2014. However, due to space constrain Mangal Karan had started living on rent in the year 2014 in the Jhuggi No. B-656, Bhoomiheen Camp belonging to one Pradeep Karan, who happened to be hailing from the same village. The parents of Mangal Karan also came to Delhi and started living with Mangal Karan and ultimately Mangal Karan purchased the said Jhuggi No. B-656 on 05.03.2018 from Pradeep Karan for a sale consideration of Rs.3 lacs vide Agreement to Sale (Annexure-Y). In this regard it is pointed out that the Agreement to Sell dated 05.03.2018 (Annexure-Y) is an unregistered document and hit by section 17 of the Indian Registration Act. But the fact remains that as per the statement of Mangal Karan he had lived on rent in Jhuggi No. B-677, Bhoomiheen Camp up to 2014 and he had lived on rent as tenant from 2014 to 05.03.2018 in Jhuggi No. B-656 before he purchased it vide Agreement to Sell dated 05.03.2018 (Annexure-

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14. The statement of Mangal Karan also shows that he is working a driver with Captain P Chopra R/o D-1, Nizamuddin East, New Delhi. Mangal Karan had opened the Account no. 33931935570 with Central Bank of India, Nizamuddin Branch, Delhi on 22.09.2014 on the address of Jhuggi No. B-677, Bhoomiheen Camp of his brother-in-law, Deepak Parmanik and the copy of the Pass Book is Annexure-Z.

15. The statements of Mangal Karan and Parmanand Jha shows that the Account No. 33931935570 was opened on 22.09.2014 on the introduction of his employer Captain P Chopra. Mangal Karan had submitted the "Account Opening Form" (Annexure-X) thereby annexing the "Domestic Servant/Employee Verification Form" carrying the seal of P.S. Nizamuddin and the Voter ID Card of Deepak Parmanik (brother-in-law of Mangal Karan) was also attached.

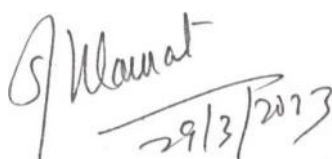
Mangal Karan has specifically admitted that in the "Account Opening Form" he had wrongly mentioned his date of birth to be 20.02.1998 inspite of the fact that he very well knew that his correct date of birth is 12.05.1997 and further in all of other documents, Annexure-A to Annexure-D, his date of birth has been correctly recorded to be 12.05.1997.

16. The statements of Mangal Karan and Parmanand Jha also shows that Mangal Karan had not attached any documents whatsoever with regard to his date of birth and the address. But the Account No. 33931935570 was opened in routine by the bank official without asking for further verification as the "Account Opening Form" (Annexure-X) was introduced by one of the premium customer of the bank, namely, Captain P Chopra, who is admittedly the employer of present Appellant/Claimant, Mangal Karan.

17. Thus no fault can be found with the bank authorities about mentioning of relevant information in the bank records because the address and date of birth were mentioned as per the information supplied by Mangal Karan (Appellant/Claimant) thereby accepting & admitting its correctness on its face value.

18. It is the admitted fact that Mangal Karan S/o Lakhman Karan has sought allotment from DDA against Jhuggi No. B-656, Bhoomiheen Camp and his eligibility has to be determined under the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA.

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19. The bare perusal of the Policy shows that the 11 dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he must also possess a Voter ID Card on the cut off date of 01.01.2015 and further his name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and for the first floor he must have a separate ration card.

20. The admitted date of birth of the Appellant/ Claimant Mangal Karan is 12.05.1997 and accordingly he was minor on the cutoff date of 01.01.2015 and further he was not having any of the requisite mandatory documents as the statement of Mangal Karan also shows that he had got all the abovementioned four documents, Annexure-A to Annexure- D, issued after the cutoff date of 01.01.2015 on the address of Jhuggi No. B-656, Bhoomiheen Camp to create documents to support his claim. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that he was minor on the cut off date of 01.01.2015 and he was not having a valid Voter ID Card on the cut off date of 01.01.2015 and his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

21. There is no doubt that the Account No. 33931935570 was opened on 22.09.2014, just 4 months prior to the cutoff date of 01.01.2015. This account was not opened on the address of jhuggi No. B-656, Bhoomiheen Camp regarding which the Appellant/ Claimant, Mangal Karan, is seeking allotment from DDA. But it was opened on the address of Jhuggi No. B-677, Bhoomiheen Camp of his brother-in-law, Deepak Parmanik and it is duly reflected in the copy of the bank Pass Book, Annexure-Z. Therefore, opening of Account No. 33931935570 on 22.09.2014 is of no consequence as it was opened on the address of Jhuggi No. B-677, Bhoomiheen Camp whereas the Appellant/ Claimant is claiming allotment from DDA against Jhuggi No. B-656, Bhoomiheen Camp. Thus opening of Account No. 33931935570 on 22.09.2014 is of no help to him to seek allotment from DDA.

22. However, after purchasing of Jhuggi No. B-656 vide Agreement to Sell dated 05.03.2018 (Annexure-Y), the Appellant/ Claimant, Mangal Karan, had got the address changed in the bank record from Jhuggi No. B-677 Bhoomiheen Camp to Jhuggi No. B-676, Bhoomiheen Camp. The exact date & month is not given. Furthermore, the copy of the application made for getting the change in address made is not placed on file. But the fact remains that the change was sought after March 2018, much after the cutoff date of 01.01.2015 fixed by DDA policy.
23. It is pointed out that the change of address is duly reflected in the new Pass Book and its copy is Annexure-Z/1. However in the Pass Book, Annexure-Z/1, the date of opening of the account is recorded to be 20.09.2014 as per routine bank practice. But the Appellant/ Claimant, Mangal Karan has tried to take undue advantage of this entry.
24. It is pointed out that the Appellant/Claimant with a wrong & dishonest intention had concealed the material facts before the Hon'ble High Court as he had not produced the earlier bank Pass Book, Annexure-Z, of A/c No. 33931935570 because otherwise it would have been revealed that the account was originally opened on the address of Jhuggi No. B-677 and after 2018 (after the cutoff date of 01.01.2015) it was changed to new address of Jhuggi No. B-656, Bhoomiheen Camp. This shows that the Appellant/ Claimant has intentionally produced the selected document with an intention to show that the account was opened on 20.09.2014 on the address of Jhuggi No. B-656, Bhoomiheen Camp just to grab allotment from DDA by hook or crook. However, when the entries made in both the Pass Books (Annexure-Z & Annexure-Z/1) are read jointly then the true intention of the present Appellant/Claimant is revealed thereby showing that he is acting in a clandestine manner to cheat & defraud DDA.
25. It is pertinent to point out that in order to create evidence in support of his claim to seek alternate allotment from DDA against Jhuggi No. B-656, Bhoomiheen Camp the Appellant/ Claimant has got prepared following documents after the cutoff date of 01.01.2015 as per details given below: -

- (i) Agreement to Sell (Annexure-Y) dated 05.03.2018
- (ii) (Voter ID Card ARE 2281012 (Annexure-A) dated 25.07.2029
- (iii) Aadhar Card 9924 3364 5537 (Annexure-B) dated 06.06.2015
- (iv) Driving license (Annexure-D) dated 15.03.2016.


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- (v) *Opened Account No. 33931935570 (Annexure-Z) on 22.09.2014 on the address of Jhuggi No. B-677 by providing wrong & false information to the bank about his date of birth & address. But after March 2018 the address of Jhuggi No. B-677 was got changed in the bank records to new address of Jhuggi No. B-656, Bhoomiheen Camp and these facts are reflected in the Pass Books, Annexure-Z & Annexure-Z/1.*

26. The material placed on file shows that the date of birth of the Appellant/ Claimant Mangal Karan is 12.05.1997 and accordingly he was minor on the cutoff date of 01.01.2015 and further he was not having any of the requisite mandatory documents as the statement of Mangal Karan also shows that he had got all the abovementioned four documents, Annexure-A to Annexure- D, issued after the cutoff date of 01.01.2015 on the address of Jhuggi No. B-656, Bhoomiheen Camp to create documents to support his claim.

27. Moreover, the bank Pass Books of Central Bank of India, Annexure-Z & Annexure-Z/1, are also of no help to the Appellant/ Claimant Mangal Karan because as per our discussion above, the Account No. 33931935570 was opened on 22.09.2014, just 4 months prior to the cutoff date of 01.01.2015 as reflected in the copy of the Pass Book, Annexure-Z but this account was opened on the address of Jhuggi No. B-677, Bhoomiheen Camp of his brother-in-law, Deepak Parmanik whereas the Appellant/ Claimant is claiming allotment from DDA against Jhuggi No. B-656, Bhoomiheen Camp.

28. Furthermore, after allegedly purchasing of Jhuggi No. B-656 vide Agreement to Sell dated 05.03.2018 (Annexure-Y), Mangal Karan had got the address changed in the bank records pertaining to his Account No. 33931935570 from Jhuggi No. B-677 Bhoomiheen Camp to Jhuggi No. B-656, Bhoomiheen Camp. Thus the address was changed after March 2018, much after the cutoff date of 01.01.2015. The change of address has been duly reflected in the new Pass Book and its copy is Annexure-Z/1. However, in the Pass Book, Annexure-Z/1, the date of opening of the account is recorded to be 20.09.2014 as per routine bank practice.

29. Thus the material placed on file shows that the Appellant/ Claimant had opened the Account No. 33931935570 on 22.09.2014 as reflected in the copy of the Pass Book, Annexure-Z. But this account was opened on the address of Jhuggi No. B-677, Bhoomiheen Camp, belonging to his brother-in-law, Deepak Parmanik whereas the Appellant/ Claimant is claiming allotment from DDA against Jhuggi No. B-656,

Bhoomiheen Camp. There is no doubt that the Appellant/ Claimant Mangal Karan had got the address changed in the bank records pertaining to his Account No. 33931935570 from Jhuggi No. B-677, Bhoomiheen Camp, to Jhuggi No. B-656, Bhoomiheen Camp, in March 2018. But the address was changed in the year 2018, much after the cutoff date of 01.01.2015. The change of address has been duly reflected in the new Pass Book and its copy is Annexure-Z/1. However, in the Pass Book, Annexure-Z/1, the date of opening of the account is recorded to be 20.09.2014 as per routine bank practice.

30. The Appellant/Claimant has tried in futility to use the Pass Book containing (i) the changed address & (ii) showing that the account has been opened on 29.09.2014, to support his claim for alternate allotment inspite of the fact that he very well knew that the address was changed after March 2018, much after the cutoff date of 01.01.2015 and also the fact that date of opening of account has been mentioned to be 29.09.2014 in a routine manner. Hence the facts thereby mentioning the "new address, i.e., Jhuggi No. B-656, Bhoomiheen Camp & date "29.09.2014", in the Pass Book (Annexure-Z/1) issued by Central Bank of India, are of no help to the Appellant/Claimant and it does not create any right, title & interest in his favour to claim alternate allotment from DDA. Thus under such circumstances we have no hesitation in holding that opening of Account No. 33931935570 on 22.09.2014 and the entries about address made in the Pass Book, Annexure-Z & Annexure-Z/1, are of no help to the Appellant/ Claimant, Mangal Karan, to seek allotment from DDA.

31. The copy of this order be sent in a sealed cover to be placed before the Hon'ble High Court in W.P. (C) 2352/2023 & CM APPL. 8998/2023, 9000/2023 titled "Mangal Karan versus Delhi Development Authority & ANR" before the next date of hearing on 11.04.2023. The file be consigned to records after due compliance.



(Rishir Singh)

It. Secretary (Retd.) GOI

MEMBER

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(Sushish Ahlawat)

Addl. District & Sessions Judge (Retd.)

CHAIRMAN

(Rachna Tiwary)

EXPERT MEMBER

BEI ORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JI DWELLERS OF BHOOIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeals No: 434 of 2023 & 434/A of 2023

Date of Institution: 29.11.2022

Date of Order: 29.03.2023

Present: Appellant/ Claimant Pintoo Das S/o Sapan Das

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

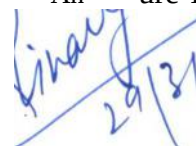
1. The Appellant/ Claimant Pintoo Das S/o Sapan Das is allegedly living on the first floor of Jhuggi No. C-420, Bhoomiheen Camp but he had submitted two representations thereby seeking allotment against the first floor of Jhuggi No. C-420 and got survey conducted twice of that very Jhuggi. Interestingly both the representations instead of treating as one were treated two separate claims and were placed separately before the Eligibility Determination Committee (EDC) and both the claims were rejected by EDC and the Nodal Officer, Bhoomiheen Camp, duly communicated its rejection order vide two separate orders to the present Appellant/ Claimant. One order is bearing No. 385/68/74.1/1567 dated 07.11.2022 and the second is bearing No. 385/68/74.1/1568 dated 07.11.2022. More interestingly the present Appellant/ Claimant has filed Appeal No. 434 of 2023 to challenge order bearing No. 385/68/74.1/1567 dated 07.11.2022 and another Appeal No. 434/A of 2023 to challenge order bearing No. 385/68/74.1/1568 dated 07.11.2022. Since the subject matter involved, the parties and the relief claimed in both the Appeals No. 434 of 2023 and 434/A of 2023 are same, therefore, it has been directed to decided both the appeals by a common order with the direction that Appeal No. 434 of 2023 shall be treated as main file and all the proceedings shall be conducted in this file whereas the file of Appeal No. 434/A of 2023 shall be tagged with the main file.
2. This order disposes off both the Appeals bearing No. 434 of 2023 & 434/A of 2023 filed by the Appellant/Claimant against the rejection orders bearing No.

385/68/74.1/1567 dated 07.11.2022 and bearing No. 385/68/74.1/1568 dated 07.11.2022 passed by the Eligibility Determination Committee.

3. In brief, the present Appellant/ Claimant had made two Representations to the Competent Authority thereby alleging that he is living on the first floor of the Jhuggi bearing No. C-420, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant had submitted two separate representations to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-420 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected both the claims of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its orders bearing No. 385/68/74.1/1567 dated 07.11.2022 and 385/68/74.1/1568 dated 07.11.2022, to the present Appellant/ Claimant. Aggrieved by the same, the present Appellant/ Claimant has filed Appeal No. 434 of 2023 to challenge order bearing No. 385/68/74.1/1567 dated 07.11.2022 and another Appeal No. 434/A of 2023 to challenge order bearing No. 385/68/74.1/1568 dated 07.11.2022.
4. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Pralcash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
5. The statement of the Appellant/Claimant has been recorded before us on 20.03.2023. The Appellant/Claimant has also tendered documents, Annexure- An ure-H, in


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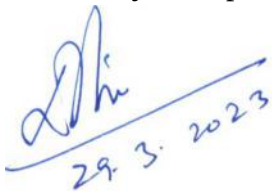

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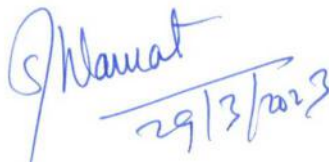
support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

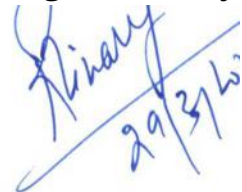
6. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
7. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-420 was found to exist on the upper floor but he had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide two separate Rejection Orders both bearing same date, i.e., 07.11.2022. In orders bearing No. 385/68/74.1/1567 dated 07.11.2022 the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** whereas in the second order bearing No. 385/68/74.1/1568 dated 07.11.2022 the reasons for rejection is mentioned to be **"Double Allotment Case"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing Appeal No. 434 of 2023 to challenge order bearing No. 385/68/74.1/1567 dated 07.11.2022 and another Appeal No. 434/A of 2023 to challenge order bearing No. 385/68/74.1/1568 dated 07.11.2022.

Thus in the present Appeals we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

8. The statement of the Appellant/ Claimant, Pintoo Das, has been recorded before us on 20.03.2023, wherein he has stated that his parents, Sapan das & Ranu Das, are having two sons, namely, Sudip & Pintoo (Appellant/Claimant) and one daughter namely, Lily.


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Both the sons are unmarried. Whereas Lily is married and she is living in her matrimonial home in Faridabad.

9. The Appellant/ Claimant has stated that his family is having a triple storey Jhuggi No. C-420 and its ground and first floors are used for living purposes whereas the second floor is used as joint kitchen. The first and second floors are not having separate entrance from the gali but an iron ladder is placed inside the room on the ground floor for going to the first & second floor. The statement of the Appellant/ Claimant shows that the first and second floors of the Jhuggi No. C-420 are not separate dwelling units but are the part & parcel of the ground floor. Accordingly, the entire triple storey Jhuggi No. C-420 is a single dwelling unit for all the purposes and the entire family is using the ground & first floor for living purposes whereas the second floor is used as joint kitchen.
10. The Appellant/ Claimant has stated that his parents, Sapan Das & Ranu Das, along with their unmarried son Sudip, are living on the ground floor of the said Jhuggi No. C-420 and regarding that DDA has made allotment in favour of his mother Ranu Das. These facts are not disputed by DDA.
11. The Appellant/ Claimant has also stated that he is unmarried and living on the first floor of the said Jhuggi No. C-420. The Appellant/ Claimant had made two Representations to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-420, Bhoomiheen Camp, Govind Puri Extension, Kalkaji and got survey conducted twice of that very Jhuggi. Both the claims were rejected by EDC and the Nodal Officer, Bhoomiheen Camp, duly communicated its rejection order vide two separate orders to the present Appellant/ Claimant. One order is bearing No. 385/68/74.1/1567 dated 07.11.2022 and the second is bearing No. 385/68/74.1/1568 dated 07.11.2022. The present Appellant/ Claimant has filed Appeal No. 434 of 2023 to challenge order bearing No. 385/68/74.1/1567 dated 07.11.2022 and another Appeal No. 434/A of 2023 to challenge order bearing No. 385/68/74.1/1568 dated 07.11.2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-H, and prayed that DDA be directed to make allotment in his favour.

12.DDA has furnished the survey records along with 3 video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 20.03.2023 wherein he has stated that in the first video clip his mother Ranu is seen in her Jhuggi on the ground floor and her room is seen on the ground floor and in the second video clip he (Pintoo Das- Appellant/Claimant) is seen on the first floor and his room is also seen. Whereas in the third video the kitchen is seen on the second floor.

13.The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that his family is having a triple storey Jhuggi No. C-420 and its ground & first floors are used for living purposes whereas the second floor is used as joint kitchen. The first and second floors are not having separate entrance from the gali but an iron ladder is placed inside the room on the ground floor for going to the first & second floor. The statement of the Appellant/ Claimant shows that the first & second floors of the Jhuggi No. C-420 are not separate dwelling units but are the part & parcel of the ground floor. Accordingly the entire triple storey Jhuggi No. C-420 is a single dwelling unit for all the purposes and the entire family is using the ground & first floor for living purposes whereas the second floor is used as joint kitchen. The Appellant/Claimant as well as his brother, Sudip are unmarried and they are sharing joint kitchen with their parents, Sapan Das & Ranu Das thereby showing that the Appellant/Claimant is not living separately but he is living jointly with his parents. Accordingly, the ground floor, first floor and the second floor of the said Jhuggi No. C-420 are not separate & independent dwelling units but are part & parcel of one dwelling unit and only one allotment can be made against Jhuggi No. C-420 by DDA as per its policy.

14.Thus the statement of the Appellant/Claimant as well as the survey records/video clip has duly proved that the triple storey pucca Jhuggi No. C-420 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and all the floors are found to be part & parcel of one dwelling unit and regarding Jhuggi No. C-420 DDA has made allotment in favour of his mother, Ranu Das. Two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA. But the Appellant/Claimant in collusion with his family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because all the floors of jhuggi No. C-420 is found to be part & parcel of one dwelling unit and regarding Juggi

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No. C-420 DDA has already made allotment in favour of his mother, Ranu Das and accordingly second allotment in favour of the Appellant/Claimant cannot be made.

15.Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

16.The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-H, in support of his claim and prayed that DDA be directed to make allotment in his favour.

17.It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card but having a joint Ration Card issued in the name of his mother, Ranu Das. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection orders bearing No. 385/68/74.1/1567 dated 07.11.2022 and order bearing No. 385/68/74.1/1568 dated 07.11.2022.

18.First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate dwellers would be as und

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1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Pas book issued by public sector Bank/Post Office 1h phot h.

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- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

19. As per Part-B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

20. As already pointed out above, condition contained in Part-B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

21. Thus Part-B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have


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only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

22. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
23. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
24. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1604304 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2013 (Annexure-G)) and the Voter List of the year 2019 (Annexure-H).
25. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1604304 (Annexure-A), which has been issued on 16.01.2013, much prior to the cutoff date of 01.01.2015. It is pointed out that the name of the Appellant/Claimant appears at Si. No. 650 in the Voter List of the year 2013 (Annexure-G) and at SI. No. 529 in the Voter List of the year 2019 (Annexure-H). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

26. The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. C-420 regarding which he has claimed allotment from DDA. The Appellant/Claimant has tendered his joint Ration Card (Annexure-F), which has been issued on 30.10.2014 in the name of his mother Ranu Das and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor of Jhuggi bearing No. C-420 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.
27. The Appellant/ Claimant has also tendered the Electricity Bill (Annexure-D) and his Pass Book of PNB (Annexure-E). The Electricity Bill (Annexure-D) shows that the electricity connection has been taken by his father Sapan Das on his ground floor Jhuggi No. C-420 on 21.05.2022, much after the cutoff date of 01.01.2015. The Pass Book of PNB (Annexure-E) shows that the Appellant/Claimant has opened the account on 30.10.2014 much after the cutoff date of 01.01.2015. It is pertinent to point out that the documents, Annexure-D and Annexure-E, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above he was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.
28. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he has claimed allotment against the first floor. Furthermore, the ground, first & second floors of the Jhuggi No. C-420 are not found to be separate & independent dwelling units but are found to be part & parcel of the same dwelling unit regarding which DDA has already made allotment in favour of his mother, Ranu Das and two allotments against the same dwelling unit is not permissible. It is pointed out that the documents, Annexure-A to Annexure-H, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favou to clai allot • -nt

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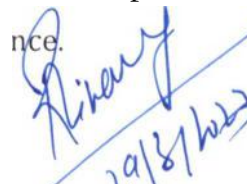
from DDA. Accordingly, we have no hesitation in holding that the ground, first & second floors of the Jhuggi No. C-420 are not found to be separate & independent dwelling units but are found to be part & parcel of the same dwelling unit regarding which DDA has already made allotment in favour of his mother, Ranu Das and the Appellant/ Claimant is not eligible to claim allotment against that very Jhuggi as two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA and further he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. C-420 regarding which he has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

29. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in both the impugned orders bearing No. 385/68/74.1/1567 dated 07.11.2022 and 385/68/74.1/1568 dated 07.11.2022. Hence the same is upheld. Consequently, both the present appeals No. 434 of 2023 and 434/A of 2023 are dismissed being devoid of any merit. Copy of this order be placed in the connected file of Appeal 434/A of 2023.

30. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.


(Ranu Das)


(Satish Ahlawat)


(Rachna Tiwary)

Jt. Secretary (Retd.) GO! Addl. District & Sessions Judge (Retd.)

MEMBER

CHAIRMAN

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF II DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 570 of 2023

Date of Institution: 06.12.2022

Date of Order: 31.03.2023

Present: Appellant/ Claimant Satish Kumar S/o Ganesh Prasad

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. Before appraising the material placed on file on merit, we will discuss the facts leading to filing of W.P. (C) 398/2023 & CM APPL. 1592/2023 titled "Sunil Kumar & ORS. Versus Government of NCT Of Delhi & AN R" before the Hon'ble High Court of Delhi.
3. DDA has placed on file the copy of order dated 13.01.2023 passed by the Hon'ble High Court of Delhi in W.P. (C) 398/2023 & CM APPL. 1592/2023 titled "Sunil Kumar & ORS. versus Government of NCT of Delhi & ANR".
4. The perusal of the order dated 13.01.2023 shows that eleven Petitioners being aggrieved by the list dated 07.11.2022, published by the Eligibility Determination Committee ('EDC') have approached the Hon'ble High Court by way of filing the above mentioned petition. The petitioners have also alleged that they have made representations before the Appellate Authority. Accordingly, the Hon'ble High Court was of the view that the Petitioners must first avail and exhaust the remedy of appeal provided under the Rehabilitation Policy especially since the Petitioners are assailing a fact finding by the EDC. The Hon'ble High Court has accordingly directed this Appellate Authority to take up the matter on the date already fixed i.e., 10.04.2023 and dispose off the same expeditiously. The Hon'ble High Court has also directed Delhi

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Development Authority (Respondent No. 2 before the Hon'ble High Court) to place a copy of the orders on Appellate Authority's record and facilitate a hearing on 10.04.2023.

5. The details of the appeals filed by the eleven Petitioners is given below :-

S.No.	Applicant Name	Jhuggi No.	Appeal No.	Appeal Date	Remarks
1	Kashmir Lal Sbo Ram Singh	B-300	256/2023	24.11.2022	
2	Mahender Kumar Sbo Chander Bhan	B-550	555/2023	06.12.2022	
3	Satish Sbo Ganesh Prasad	B-87/2	570/2023	06.12.2022	
4	Mohini W/o Mukesh Kumar	B-300	257/2022	24.11.2022	
5	Mohit Kumar Sbo Sh. Raj Babu	C-374	308/2023	28.11.2022	Appeal No. 308 of 2023 has already been rejected by the Appellate Authority on 21.01.2023 before communication of Order Dated 13.01.2023.
6	Sunil Kumar Sbo Bihari Lal	C-537	47/2022	21.11.2022	
7	Sanjeev Bhadra S/o Samiran Bhadra	C-248/B	558/2023	06.12.2022	
8	Kundan Kumar Shah S/o Nand Kumar Shah	C-480	600/2023	08.12.2022	
9	Neelam W/o Chandan Kumar Sah	C-751	574/2023	06.12.2022	
10	Anil Kumar S/o Bihari Lal	D-219			EDC has not rejected the claim. No Appeal has been filed before the Appellate Authority.


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11	Chandan Kumar Sah Sbo Nand Kumar Sah	D-580			EDC has not rejected the claim. No Appeal has been filed before the Appellate Authority.

6. It is pointed out that two of the Petitioners, Anil Kumar & Chandan Kumar Sah (shown at Si. No. 10 & 11 in table in Para No. 5 above) have not made representations/Appeals before the Appellate Authority. However, the remaining nine Petitioners (shown at SI. No. 1 to 9 in table in Para No. 5 above) have made representations/Appeal before the Appellate Authority. But the Appeal No. 308 of 2023 filed by Appellant/Claimant Mohit Kumar (Petitioner shown at SI. No. 05 in table in Para No. 5 above) has already been rejected on 21.01.2023 before communication of Order Dated 13.01.2023.
7. It is also pointed out that DDA has placed on file the copy of another order dated 06.03.2023 passed by the Hon'ble High Court of Delhi in W.P. (C) 2801/2023 titled "Sunil Kumar & ORS. versus Government of NCT of Delhi & ANR" whereby the name of Anil Kumar & Chandan Kumar Sah (shown at SI. No. 10 & 11 in table in Para No. 5 above) were deleted from the array of parties.
8. In the light of the directions passed by the Hon'ble High Court it was directed by us to prepone the eight appeals filed by the remaining eight Petitioners (shown at SI. No-1 to 04 and 06 to 09 in table in Para No. 5 above) for conducting further proceedings on top priority for disposal on their respective merits.
9. All the above-mentioned eight Appeals stand disposed of vide separate orders dated 31.03.2023 as mentioned below:-

S. No.	Appeal No.	Name of the Appellant/Claimant	Jhuggi No.	Result	Remarks
1.	47/2022 Dt. 21.11.2022	Sunil Kumar Sb o Bihari Lal	C-537	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/Claimant was found not having requisite mandatory documents.

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2.	256/2023 Dt. 21.11.2022	Kashmir Lal S/o Ram Singh	B-300	Appeal stands rejected vide Order Dt. 31.03.2023	Jhuggi No. B-300 was found to be solely used for commercial purposes.
3.	257/2022 Dt. 24.11.2022	Mohini W/o Mukesh Kumar	B-300	Appeal stands rejected vide Order Dt. 31.03.2023	The Appellant/Claimant was found to be not living in Jhuggi No. B-300 but has filed wrong claim by concocting wrong & false story.
4.	555/2023 Dt. 06.12.2022	Mahender Kumar S/o Chander Bhan	B-550	Appeal stands allowed vide Order Dt. 31.03.2023 . DDA has been directed to make allotment in favour of Appellant/Claimant.	Jhuggi No. B-550 was found to be used for commercial & residential purposes and Appellant/Claimant was found to have all the requisite documents.
5.	558/2023 Dt. 06.12.2022	Sanjeev Bhadra S/o Samiran Bhadra	C-248/ B	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/ Claimant was found not having requisite mandatory documents.
6.	570/2023 Dt. 06.12.2022	Satish S/o Ganesh Prasad	B-87/2	Appeal stands rejected vide Order Dt.	Appellant/Claimant has filed wrong claim to seek double allotment by concocting wrong & false story.
7.	574/2023 Dt. 06.12.2022	Neelam W/o Chandan Kumar Sah	C-751	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/Claimant has forged documents and filed wrong claim by concocting wrong & false story.


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8.	600/2023 Dt. 08.12.2022	Kundan Kumar Shah Sbo Nand Kumar Shah	C-480	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/Claimant was found not having requisite mandatory documents. The second floor is not covered under the definition of upper floor under the DDA Policy.

10. Now we shall deal the present Appeal on merit.

11. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-87, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. It was observed by the EDC that as per the survey records the Appellant/ Claimant had got conducted the survey against Jhuggi No. B-87 and submitted requisite documents in respect of Jhuggi No. B-87, Bhoomiheen Camp. However it was observed that the Appellant/ Claimant Satish is residing in his father's Jhuggi on the ground floor of the Jhuggi, which is also being used as a shop. The same single unit on the ground floor is being partitioned as shop as well as living structure. The parents of Satish, namely, Ganesh & Devaki, have already

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got a survey conducted in their individual names on the same Jhuggi, i.e., B-87 by fabricating material facts. Ganesh has even said in the videography that his wife Devaki has already expired so that he can claim allotment against the said Jhuggi. Devaki has also said in the videography that her husband Ganesh resides in village and does not live with her. The entire family stays on the ground floor and also operates a shop on the same floor. The name of Devaki, who is mother of the Appellant/ Claimant, has already been considered for alternative allotment on ground floor of Jhuggi No. B-87 and as per policy, two allotments cannot be made in respect of single Jhuggi. The EDC has observed that the Appellant/ Claimant has filed wrong claim and has tried to suppress the material facts and accordingly the Appellant/ Claimant was found ineligible for alternative allotment as the claim was found to be a case of double allotment and suppression of material facts and he had also failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/62/80.G/1348 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 570 of 2023 has been filed by the present Appellant/ Claimant.

12. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

13. The statement of the Appellant/Claimant has been recorded before us on 02.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. He has also examined his father, Ganesh, as well as his mother, Devki, on 06.03.2023 in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

14. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.


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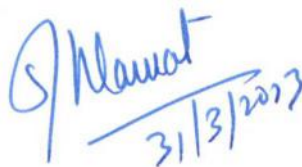
15. It is the admitted fact that as per survey record, the Appellant/ Claimant was found ineligible for alternative allotment as the claim was found to be a case of double allotment and suppression of material facts. The parents of Satish, namely, Ganesh & Devaki, have already got a survey conducted in their individual names on the same Jhuggi, i.e., B-87 by fabricating material facts. The name of Devaki, who is mother of the Appellant/ Claimant, has already been considered for alternative allotment on the ground floor of Jhuggi No. B-87 and as per policy, two allotments cannot be made in respect of single Jhuggi. The Appellant/ Claimant had failed to submit required documents as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Two allotment in respect of one Jhuggi/Unit are not permissible as per policy guidelines"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant has suppressed material facts and whether this is the case of double allotment and further whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment as per the policy guidelines issued by DDA.

16. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-I, in support of his claim and prayed that DDA be directed to make allotment in his favour. It is argued on behalf of the Appellant/ Claimant that he fulfills the criteria and possesses all the requisite documents and he has furnished documents in proof of residence.

17. The Appellant/ Claimant has further contended that the purpose of the policy formula-


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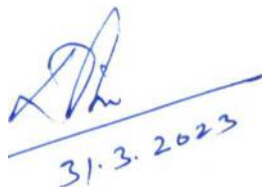

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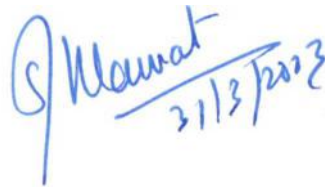

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ted by DDA is to ensure rehabilitation and relocation to economically weaker sections and would have to be interpreted in a broader and beneficial manner rather than in a narrow and pedantic manner by placing reliance on the Authority of the Hon'ble High Court of Delhi dated 30.01.2023 in W.P. (C) 315/2020 & CM Application 929/2020 titled "Smt. Beni versus Government of NCT Delhi & Ors." and another Authority of the Hon'ble High Court of Delhi dated 11.02.2010 in W.P. (C) 8904/2009, 7735/2007, 7317/2009 and 9246/2009 titled "Sudama Singh & Ors. versus Government of Delhi & Anr." and another Authority of the Hon'ble High Court of Delhi dated 04.07.2022 in W.P. (C) 4785/2008 & CM Application 9216/2008 titled "Samarpal & Ors. versus UOI & ors."

18. It is argued on behalf of DDA that Part-B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that the Appellant/ Claimant must have all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and his name must also appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. But the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he had made wrong claim in collusion with her family members to claim alternate allotment from DDA inspite of the fact that he was not separately & independently living in Jhuggi No. B-87 regarding which he has claimed allotment from DDA but instead he was living jointly in the said Jhuggi and further he has come forward with a wrong & false story in collusion with his family members. the Jhuggi No. B-87 is a pucca triple storey structure and all the floors are the part & parcel of the same dwelling unit bearing Jhuggi No. B-87 regarding which DDA has already made allotment in favour of his mother Devki. Two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/62/80.G/1348 dated 07.11.2022.

19. We have no dispute with regard to the proposition of law laid down in the authorities


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relied upon by the Appellant/ Claimant. It is humbly pointed out that the Appellate Authority has to take a holistic view of the matter and is required to consider all the documents before arriving at a conclusion as to whether the Appellant/ Claimant is entitled to rehabilitation or not. The appeal filed by the Appellant/ Claimant cannot be rejected by taking a narrow and pedantic manner but all the documents which may establish residence at the Jhuggi on the relevant date of 01.01.2015 have to be considered holistically. On this aspect reliance can also be placed on the Authority of the Hon'ble High Court of Delhi dated 01.08.2017 in W.P. (C) 5378/2017, CM Application 22718/2017 titled "Udal & Ors versus Delhi Urban Shelter Improvement Board & Ors".

20.First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and **B** Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.

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8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/Ji dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

21.The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear

in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22.Now in the light of the legal position discussed above in detail we shall discuss the oral and documentary evidence brought on record by the parties.

23.The statement of the Appellant/Claimant has been recorded before us on 02.03.2023 and he has also examined his father, Ganesh, as well as his mother, Devki, on 06.03.2023 in support of his claim. The gist of their statements is summarized in the Paras herein below.

24.Satish (Appellant/ Claimant), Ganesh & Devki have stated that Ganesh has entered into first marriage with Devrati but she had died issueless about 40 years ago. After the death of first wife Devrati, Ganesh had entered into second marriage with Devki in the year 1982. Out of the second wedlock, five sons, namely, Arjun, Chandan, Satish (Appellant/Claimant), Satya Prakash & Hari Shankar, were born. Out of whom Arjun, Chandan and Hari Shankar are unmarried. Whereas Satya Prakash is married with Kajal but they are not having any issues. Satish (Appellant/Claimant) is married with Khushi and he is also not having any issues.

25.Satish (Appellant/ Claimant), Ganesh & Devki have stated that their family is having two Jhuggis just abutting to each other and their backs are touching to each other. One is single storey Jhuggi No. B-87 (FIRST JHUGGI) and the second is a triple storey Jhuggi (SECOND JHUGGI). The ground floor of the said triple storey Jhuggi (SECOND JHUGGI) was partitioned into two portions. In one portion Ganesh is running a grocery shop and it has been given Jhuggi No. B-87/1 whereas in the second portion Satish is living with his wife and it has been given Jhuggi No. B-87/2. There are three rooms on the first floor. In one of the rooms on the first floor Satya Prakash along with his wife Kajal


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is living and the remaining two rooms are occupied by two of the unmarried brothers, Chandan & Arjun. There is one room and a joint kitchen on the second floor. In the room on the second floor another unmarried son, Hari Shankar, is living whereas the entire family uses the kitchen on the second floor as joint kitchen.

26. Satish, Ganesh & Devki have stated that Satya Prakash, Arjun, Chandan and Hari Shankar have not filed any claims thereby seeking allotments from DDA. However, three individual claims have been filed by Satish (Appellant/ Claimant) and his parents, Ganesh & Devki. DDA has made allotment in favour of Devki against the single storey Jhuggi No. B-87 (FIRST JHUGGI). These facts are not disputed by DDA.

27. Satish, Ganesh & Devki have stated that Ganesh has been running a grocery shop in one of the portion on the ground floor of the triple storey Jhuggi (SECOND JHUGGI), which has been given Jhuggi No. B-87/1 and he had sought allotment against the said Jhuggi but his claim has been rejected by DDA. However, Ganesh has not filed any appeal against the rejection order before the Appellate Authority. These facts are not disputed by DDA.

28. Satish, Ganesh & Devki have stated that Satish (Appellant/ Claimant) along with his wife Khushi is living in the second portion on the ground floor of the triple storey Jhuggi (SECOND JHUGGI), and it has been given Jhuggi No. B-87/2. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal No. 570 of 2023 for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure I, and prayed that DDA be directed to make allotment in his favour.

29. The admission of Satish (Appellant/ Claimant), Ganesh & Devki shows that the family has carved two portions on the ground floor of their Jhuggi and one portion is used exclusively as shop for running grocery store by Ganesh and second portion is used for living purposes by Satish. Further, their admission also shows that their family comprises of the parents, Ganesh & Devki, and three unmarried sons Arjun, Chandan


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& Hari Shankar) as well as the families of both the married sons (Satish & Satya Prakash) and most importantly the family is living jointly and sharing a joint kitchen. This creates dent in the story put forward by the Appellant/Claimant to show that the Appellant/ Claimant is not living separately & independently but he is living jointly with his parents in Jhuggi No. B-87 but for their own convenience and in order to claim more than one allotment they have given different numbers, i.e., B-87, B-87/1 & B-87/2, to their Jhuggi No. B-87. Further, carving two portions on the ground floor of their Jhuggi and using one portion as shop for running grocery store by Ganesh and using the second portion for living purposes does not make it two dwelling units but for all purposes it remains to be one Jhuggi bearing number B-87 and regarding that DDA has already made allotment in favour of Devki and accordingly two allotments against one dwelling unit are not permissible as per the guidelines issued by DDA.

30. DDA has furnished the survey records along with 16 video clips. The video clips were played before Satish (Appellant/ Claimant), Ganesh & Devki when their statements were recorded before us on 02.03.2023/06.03.2023 wherein they have stated that in the 8 video clips Devki is seen in Jhuggi No. B-87 and she is heard stating, "Her name is Devki and the name of her husband is Ganesh. She is having two sons, thereafter stated that she is having three sons and that her husband (Ganesh) is living in the village". In the next 3 video clips Ganesh is seen in his grocery shop bearing Jhuggi No. B-87/1 and he is heard stating, "His name is Ganesh and his wife Devratti has died. His wife Devratti had died. His wife is not alive and he is having two sons". In the next 5 video clips Satish (Appellant/ Claimant) is seen in his Jhuggi on the ground floor bearing No. B-87/2 and he is heard stating, "His mother is Dhurpati Devi. His parents Ganesh & Dhurpati are living in village whereas he along with his wife Khushi is living in Bhoomiheen Camp."

31. It is pertinent to point out that DDA has furnished the survey records along with 16 video clips. The video clips were played before Satish (Appellant/ Claimant), Ganesh & Devki when their statements were recorded before us on 02.03.2023/06.03.2023 and interestingly all three, namely, Satish (Appellant/ Claimant), Ganesh & Devki have categorically admitted that they have intentionally made wrong statements at the time


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of conducting of survey/videography survey so that they all three (Satish, Ganesh & Devki) can get three allotments from DDA. Now we shall discuss the explanation submitted by each of them in the videos thereby showing that in order to defraud & cheat DDA they have made wrong & false statements to procure more than one allotment from DDA by hook or crook.

VIDEO OF DEVKI

32.As mentioned above DDA has furnished the survey records along with 16 video clips and in the 8 video clips Devki is seen in Jhuggi No. B-87 and she is heard stating, "Her name is Devki and the name of her husband is Ganesh. She is having two sons, thereafter stated that she is having three sons and that her husband (Ganesh) is living in the village".

EXPLANATIONS SUBMITTED BY GANESH, DEVKI & SATISH

33.Ganesh has stated that his wife Devki has made false statement to ensure that they all three could get allotments from DDA against Jhuggi No. B-87, B-87/1 and B-87/2.

34. Devki has stated that she has made false statement so that her husband Ganesh could get allotment against his shop bearing No. B-87/1 and further her son Satish also could get another allotment against Jhuggi No. B-87/2. Further she had regretted for telling a lie and sought pardon for her felony.

35. Satish has stated that his mother has made a false statement because she is a Diabetic and is also a thyroid patient and that's why she is not in a sound mental state and in mental confusion she had made a wrong statement.

VIDEO OF GANESH

36.As mentioned above DDA has furnished the survey records along with 16 video clips and in the 3 video clips Ganesh is seen in his grocery shop bearing Jhuggi No. B-87/1

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and he is heard stating, "His name is Ganesh and his wife Devratti has died. His wife is not alive and he is having two sons."

EXPLANATIONS SUBMITTED BY GANESH, DEVKI & SATISH

37. Ganesh has stated that he has made a false statement to ensure that he himself gets allotment from DDA against his shop bearing Jhuggi No. B-87/1 and his son Satish get allotment from DDA against Jhuggi No. B-87/2.
38. Devki has stated that her husband Ganesh has made a false statement at the time of survey to the effect that "his wife is not alive and further he has two sons" so that she faces no hurdle in getting allotment from DDA and Ganesh also gets allotment against his shop bearing No. B-87/1 and further their son Satish also could get another allotment against Jhuggi No. B-87/2. Further she regretted telling a lie and sought pardon for her felony.
39. Satish has stated that his father is heard saying that "his wife has died and he has two children and he lives on the first floor of his shop along with his two children". He is not giving a correct statement as his mind is not functioning properly and in mental confusion he had made such false statement. Moreover, his shop was also not doing good business that is why in a disturbed mental state he had made a wrong statement that his wife has died. He has made a false statement to procure three allotments by three of his family members including him.

VIDEO OF SATISH

40. As mentioned above DDA has furnished the survey records along with 16 video clips and in the 5 video clips Satish is seen in his Jhuggi No. B-87/2 and he is heard stating, "The name of his father is Ganesh and that of his mother is Dhurpati and they are living in village whereas, he along with his wife Khushi is living in Bhoomiheen Camp."

EXPLANATIONS SUBMITTED BY GANESH, DEVKI & SATISH


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41. Ganesh has stated that Satish has made a false statement therefore by wrongly giving the name of his mother to be Dhurpati but actually he (Ganesh) is the father and Devki is the mother and both of them are living in Jhuggi No. B-87 and regarding that DDA has made allotment in favour of his wife Devki. Ganesh has also stated that Satish had made a wrong statement to ensure that Ganesh and Satish both get allotment from DDA and the claim of Devki does not get rejected and that is why Satish had concocted a wrong and false storey so that their family gets maximum allotments from DDA.
42. Devki has stated that her son Satish has made a false statement at the time of survey to the effect that the name of his mother is Dhurpati but in fact she (Devki) is his mother. But Satish has made wrong and false statement to get allotment from DDA. Further Satish has also wrongly stated that his parents are living in village because she as well as her husband Ganesh are very much living in Bhoomiheen Camp and both of them as well as Satish has sought allotment from DDA. Further DDA has made allotment in her favour but Satish wanted two more allotments for himself and his father Ganesh.
43. Satish has admitted that out of mental stress he misquoted the name of his mother to be Dhurpati Devi in place of Devki so that they can get more than one allotment from DDA. Further he had also wrongly stated that his parents are living in the village but in fact both of them are very much living in Bhoomiheen camp and they have also sought allotment from DDA. DDA has already made allotment in favour of his mother Devki. Satish has also stated that he and his parents wanted more than one allotment therefore they have concocted wrong and false story and made false statements to defraud DDA to get maximum allotments in their favour.

GANESH, DEVKI & SATISH HAVE CONCOCTED WRONG & FALSE STORY IN COLLUSION WITH EACH OTHER

44. As per our discussion above, the material placed on file shows that that Ganesh had entered into first marriage with Devrati but she had died issueless about 40 years ago. After the death of his first wife Devrati, Ganesh had entered into second marriage with

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Devki in the year 1982 and out of the second wedlock; five sons were born, namely, Arjun, Chandan, Satish (Appellant/Claimant), Satya Prakash & Hari Shankar. Out of whom Arjun, Chandan and Hari Shankar are unmarried. Satya Prakash is married with Kajal but they are not having any issues whereas Satish (Appellant/Claimant) is married with Khushi and he is also not having any issues. Three members of the family, namely, Ganesh, Devki & Satish, have sought separate claim for alternative allotments from DDA by filing separate individual representations by concocting wrong & false story to ensure that they got three allotments. In furtherance of their conspiracy they have also succeeded in getting the surveys conducted by misrepresenting the survey teams. They have taken different versions about the name as well as the number of family members living in Bhoomiheen Camp. But their conspiracy was detected by the DDA team as reflected in the proceedings taken before EDC and also exposed in the statements made by them during survey/videography.

45. Furthermore, as mentioned above DDA has furnished the survey records along with 16 video clips and 8 videos pertains to the claim filed by Devki, 3 videos pertains to the claim of Ganesh and 5 videos pertains to the claim of Satish. In the 8 video clips Devki is clearly heard of making a statement that "Her name is Devki and the name of her husband is Ganesh. She is having two sons, thereafter stated that she is having three sons and that her husband (Ganesh) is living in the village". This shows that Devki is trying to conceal the fact that she is having five sons and also conceal the fact that her husband Ganesh is living in Bhoomiheen Camp and running a shop in Jhuggi No. B-87/1 regarding which he had sought allotment from DDA and further she is trying to conceal the fact that one of her son, Satish, has also sought allotment from DDA against Jhuggi No. B-87/2. As per her own admission, Devki had made wrong & false story to ensure that she as well as her husband, Ganesh, & son, Satish, could get separate allotments from DDA.

46. Similarly, in the 3 video clips Ganesh is clearly heard of making a statement that "His name is Ganesh and his wife Devratti has died. His wife is not alive and he is having two sons." This shows that Ganesh is trying to give wrong information about the name of his wife and also stating that his wife Devratti has died so that they all three


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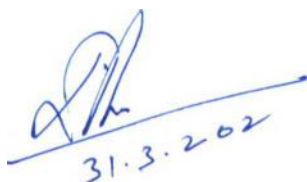

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(Ganesh, Devki & Satish) can get three separate allotments against one Jhuggi and their conspiracy to procure more than one allotment does not come to the notice of the DDA authority. Ganesh has also concealed the fact that he is having five sons and also that his wife Devki is very much alive and living in Jhuggi No. B-87/1, Bhoomiheen Camp and regarding which she had sought allotment from DDA and further he is trying to conceal the fact that one of his son, Satish, has also sought allotment from DDA against Jhuggi No. B-87/2. As per his own admission, Ganesh has made wrong & false story to ensure that he as well as his wife, Devki, & son, Satish, could get separate allotments from DDA by suppression of facts.

47. Similarly, in the 5 video clips Satish (Appellant/Claimant) is clearly heard of making a statement that "The name of his father is Ganesh and that of his mother is Dhurpati and they are living in village whereas, he along with his wife Khushi is living in Bhoomiheen Camp." This shows that Satish is trying to conceal the fact to misguide DDA authority about the name of his parents as he has given wrong name of his mother to be Dhurpati even though he very well knew that his mother is Devki . Satish has also tried to misrepresent about the number of his brothers by concealing the fact that he is having four brothers. Moreover, Satish has made palpably wrong & false statement that his parents are living in the native village in spite of the fact that he was having personal knowledge that both of them (Ganesh & Devki) are living in Bhoomiheen Camp and both of them had sought separate & independent allotments from DDA and further DDA has even made allotment in favour of his mother Devki against Jhuggi No. B-87, Bhoomiheen Camp but has rejected the claim of his father Ganesh against shop bearing Jhuggi No. B-87/1. Thus as per his own admission, Satish has made wrong & false story to ensure that he as well as his mother, Devki, & father, Ganesh, could get separate allotments from DDA.

48. The statements of Satish, Ganesh & Devki show that they have concocted wrong & false story that the family was having two Jhuggis just abutting to each other and their backs are touching to each other. They have wrongly stated that one is single storey Jhuggi No. B-87 (FIRST JHUGGI) and the second is a triple storey Jhuggi (SECOND JHUGGI) and further that the ground floor of the said triple storey Jhuggi (SECOND JHUGGI) was


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partitioned into two portions and in one portion Ganesh is running a grocery shop and it has been given Jhuggi No. B-87/1 whereas in the second portion Satish is living with his wife and it has been given Jhuggi No. B-87/2. The admission of Satish (Appellant/ Claimant), Ganesh & Devki shows that their family comprises of the parents, Ganesh & Devki, and three unmarried sons (Arjun, Chandan & Hari Shankar) as well as the families of both the married sons (Satish & Satya Prakash) and most importantly the family is living jointly and sharing a joint kitchen. Thus the Appellant/ Claimant is not living separately & independently but he is living jointly with his parents in Jhuggi No. B-87 but for their own convenience and in order to claim more than one allotment they have given different numbers, i.e., B-87, B-87/1 & B-87/2, to their Jhuggi no. B-87. Further, carving two portions on the ground floor of their Jhuggi and using one portion as shop for running grocery store by Ganesh and using the second portion for living purposes does not make it two dwelling units but for all purposes it remains to be one Jhuggi bearing number B-87 and regarding that DDA has already made allotment in favour of Devki and accordingly two allotments against one dwelling unit are not permissible as per the guidelines issued by DDA. Therefore, neither Ganesh nor Satish can lay claim for seeking second allotment from DDA against the same dwelling unit.

49. It is the admitted fact that the claim of Ganesh against the grocery shop bearing Jhuggi No. B-87/1 was rejected by EDC and he had chosen not to challenge the rejection order by way of filing of an appeal before the Appellate Authority. This shows that Ganesh was very much satisfied with the rejection order because in his statement recorded before us on 06.03.2023 he has categorically stated that by filing a wrong claim he has tried to grab allotment from DDA against shop bearing Jhuggi No. B-87/1. Both Ganesh & Devki have also specifically stated that their son Satish (Appellant/Claimant) has also tried to seek allotment from DDA by filing a wrong and false claim by concocting & false story. As pointed out above, Satish, Ganesh & Devki, have admitted that they all three have made wrong & false statement at the time of survey in order to procure three allotments from DDA by hook & crook. DDA has made allotment in favour of his mother Devki against Jhuggi No. B-87 but has rejected the claim of his father Ganesh and also that of the present Appellant/Claimant because they have tried to get two more allotments by concocting a wrong & false story that they were having two


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separate Jhuggis. However, the material placed on file shows that the family of the Appellant/Claimant is having one Jhuggi bearing number B-87 and they have tried to show that there were three different dwelling units. Accordingly, two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA. But the Appellant/Claimant in collusion with his family members has tried to get maximum allotments from DDA by hook or crook.

50. Accordingly, we have no hesitation in holding that all the floors of the Jhuggi No. B-87 are the part & parcel of the same dwelling unit bearing Jhuggi No. B-87 regarding which DDA has already made allotment in favour of his mother Devki. Two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA and accordingly the Appellant/ Claimant cannot claim alternate allotment against that very dwelling unit. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

51. Now we shall first appraise the material placed on file on other parameters also to determine the eligibility of the present Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey.

52. The bare perusal of the Policy detailed in Para no. 20 above shows that for claiming allotment the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.


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53.The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-I, in support of his claim and prayed that DDA be directed to make allotment in his favour.

54. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1459232 (Annexure-A), Aadhar Card (Annexure-B), e-SHRAM Card (Annexure-C), the Voter List of the year 2014 (Annexure-H) and the Voter List of the year 2019 (Annexure-14). The Appellant/Claimant has also tendered the Voter ID Card ARE 2558880 (Annexure-D), Aadhar Card (Annexure-E) and e-SHRAM Card (Annexure-F) of his wife Khushi and his Pass Book of South Indian Bank Ltd. (Annexure-G).

55.It is pointed out that the Voter ID Card ARE 1459232 (Annexure-A), has been issued on 30.06.2011, much prior to the cutoff date of 01.01.2015. His name appears at SI. No. 885 in the Voter List of the year 2014 (Annexure-H) and at SI. No. 1022 in the Voter List of the year 2019 (Annexure-H). It is pointed out that the Voter ID Card ARE 2558880 (Annexure-D) has been issued on 17.11.2021, much after the cutoff date of 01.01.2015. The Pass Book of South Indian Bank Ltd. (Annexure-G) shows that the account was opened on 13.01.2011. It is pointed out that the abovementioned documents , are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not living separately & independently on the cutoff date of 01.01.2015 but he was living jointly with his parents in Jhuggi No. B-87 but for their own convenience and in order to claim more than one allotment they have given different numbers, i.e., B-87, B-87/1 & B-87/2, to their Jhuggi no. B-87 but for all purposes it has been found to be one dwelling unit bearing Jhuggi No. B-87 and regarding that DDA has already made allotment in favour of his mother, Devki and accordingly two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA. Therefore, neither his father, Ganesh nor the present Appellant/Claimant, Satish, can lay claim for seeking second allotment from DDA against the same dwelling unit. Therefore, the Appellant/ Claimant cannot claim allotment against the Jhuggi No. B-87 and he does not fulfill the eligibility criteria as per the guidelines issued by DDA.



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56.The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/62/80.G/1348 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

57.Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.


 (Ranbir Singh) 31.3.2023

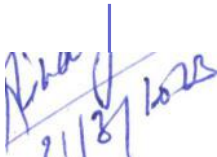
Jt. Secretary (Retd.) GOI
MEMBER


 31/3/2023

(Satish Ahlawat)

Addl. District & Sessions Judge (Retd.)

CHAIRMAN


 31/3/2023

(Rachna Tiwary)

EXPERT MEMBER

BK_i'ORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF LI DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 558 of 2023

Date of Institution: 06.12.2022

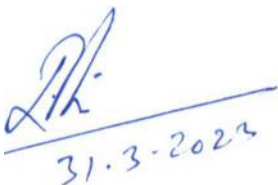
Date of Order: 31.03.2023

Present: Appellant/ Claimant Sanjeev Bhadra Sbo Samiran Bhadra

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. Before appraising the material placed on file on merit, we will discuss the facts leading to filing of W.P. (C) 398/2023 & CM APPL. 1592/2023 titled "Sunil Kumar & ORS. Versus Government of NCT of Delhi & ANR" before the Hon'ble High Court of Delhi.
3. DDA has placed on file the copy of order dated 13.01.2023 passed by the Hon'ble High Court of Delhi in W.P. (C) 398/2023 & CM APPL. 1592/2023 titled "Sunil Kumar & ORS. versus Government of NCT of Delhi & ANR".
4. The perusal of the order dated 13.01.2023 shows that eleven Petitioners being aggrieved by the list dated 07.11.2022, published by the Eligibility Determination Committee ('EDC') have approached the Hon'ble High Court by way of filing the above mentioned petition. The petitioners have also alleged that they have made representations before the Appellate Authority. Accordingly, the Hon'ble High Court was of the view that the Petitioners must first avail and exhaust the remedy of appeal provided under the Rehabilitation Policy especially since the Petitioners are assailing a fact finding by the EDC. The Hon'ble High Court has accordingly directed this Appellate Authority to take up the matter on the date already fixed i.e., 10.04.2023 and dispose off the same expeditiously. The Hon'ble High Court has also directed Delhi Development Authority (Respondent No. 2


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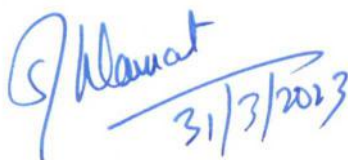

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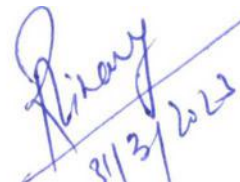
before the Hon'ble High Court) to place a copy of the orders on Appellate Authority's record and facilitate a hearing on 10.04.2023.

5. The details of the Appeals filed by the eleven Petitioners is given below:-

S.No.	Applicant Name	Jhuggi No.	Appeal No.	Appeal Date	Remarks
1	Kashmir Lal S/o Ram Singh	B-300	256/2023	24.11.2022	
2	Mahender Kumar Sb o Chander Bhan	B-550	555/2023	06.12.2022	
3	Satish S/o Ganesh Prasad	B-87/2	570/2023	06.12.2022	
4	Mohini W/o Mukesh Kumar	B-300	257/2022	24.11.2022	
5	Mohit Kumar S/o Sh. Raj Babu	C-374	308/2023	28.11.2022	Appeal No. 308 of 2023 has already been rejected by the Appellate Authority on 21.01.2023 before communication of Order Dated 13.01.2023.
6	Sunil Kumar S/o Bihari Lal	C-537	47/2022	21.11.2022	
7	Sanjeev Bhadra S/o Samiran Bhadra	C-248/B	558/2023	06.12.2022	
8	Kundan Kumar Shah S/o Nand Kumar Shah	C-480	600/2023	08.12.2022	
9	Neelam W/o Chandan Kumar Sah	C-751	574/2023	06.12.2022	
10	Anil Kumar S/o Bihari Lal	D-219			EDC has not rejected the claim. No Appeal has been filed before the Appellate Authority.
11	Chandan Kumar Sah S/o Nand Kumar Sah	D-580			EDC has not rejected the claim. No Appeal has been filed before the Appellate Authority.


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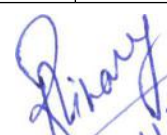
6. It is pointed out that two of the Petitioners, Anil Kumar & Chandan Kumar Sah (shown at SI. No. 10 & 11 in table in Para No. 5 above) have not made representations/Appeals before the Appellate Authority. However, the remaining nine Petitioners (shown at SI. No. 1 to 9 in table in Para No. 5 above) have made representations/Appeal before the Appellate Authority. But the Appeal No. 308 of 2023 filed by Appellant/Claimant Mohit Kumar (Petitioner shown at SI. No. 05 in table in Para No. 5 above) has already been rejected on 21.01.2023 before communication of Order Dated 13.01.2023.
7. It is also pointed out that DDA has placed on file the copy of another order dated 06.03.2023 passed by the Hon'ble High Court of Delhi in W.P. (C) 2801/2023 titled "Sunil Kumar & ORS. versus Government of NCT of Delhi & ANR" whereby the name of Anil Kumar & Chandan Kumar Sah (shown at SI. No. 10 & 11 in table in Para No. 5 above) were deleted from the array of parties.
8. In the light of the directions passed by the Hon'ble High Court it was directed by us to prepone the eight appeals filed by the remaining eight Petitioners (shown at SI. No-1 to 04 and 06 to 09 in table in Para No. 5 above) for conducting further proceedings on top priority for disposal on their respective merits.
9. All the above-mentioned eight Appeals stand disposed of vide separate orders dated 31.03.2023 as mentioned below:-

S. No.	Appeal No	Name of the Appellant/Claimant	Jhuggi No.	Result	Remarks
1.	47/2022 Dt. 21.11.2022	Sunil Kumar Sbo Bihari Lal	C-537	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/Claimant was found not having requisite mandatory documents.
2.	256/2023 Dt. 21.11.2022	Kashmir Lal S/o Ram Singh	B-300	Appeal stands rejected vide Order Dt. 31.03.2023	Jhuggi No. B-300 was found to be solely used for commercial purposes.
3.	257/2022 Dt.	Mohini W/o Mukesh Kumar	B-300	Appeal stands rejected vide Order Dt.	The Appellant/Claimant was found to be not


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	24.11.2022			31.03.2023	living in Jhuggi No. B-300 but has filed wrong claim by concocting wrong & false story.
4.	555/2023 Dt. 06.12.2022	Mahender Kumar Wo Chander Bhan	B-550	Appeal stands allowed vide Order Dt. 31.03.2023. DDA has been directed to make allotment in favour of Appellant/Claimant.	Jhuggi No. B-550 was found to be used for commercial & residential purposes and Appellant/Claimant was found to have all the requisite documents.
5.	558/2023 Dt. 06.12.2022	Sanjeev Bhadra Sbo Samiran Bhadra	C-248/B	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/Claimant was found not having requisite mandatory documents.
6.	570/2023 Dt. 06.12.2022	Satish Sbo Ganesh Prasad	B-87/2	Appeal stands rejected vide Order Dt.	Appellant/Claimant has filed wrong claim to seek double allotment by concocting wrong & false story.
7.	574/2023 Dt. 06.12.2022	Neelam W/o Chandan Kumar Sah	C-751	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/Claimant has forged documents and filed wrong claim by concocting wrong & false story.
8.	600/2023 Dt. 08.12.2022	Kundan Kumar Shah Sio Nand Kumar Shah	C-480	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/Claimant was found not having requisite mandatory documents. The second floor is not covered

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					under the definition of upper floor under the DDA Policy.

10. Now we shall deal the present Appeal on merit.

11. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-248/B, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-248/B was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/26/99.1/870 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 558 of 2023 has been filed by the present Appellant/ Claimant.

12. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

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13. The statement of the Appellant/Claimant has been recorded before us on 28.02.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
14. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
15. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-248/8 was found to exist on the upper floor but he had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

16. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour. It is argued on behalf of the Appellant/ Claimant that he fulfills the criteria and possesses all the requisite documents. Merely not having a separate ration card is of no consequence since he has furnished documents in proof of residence other than ration card. The Appellant/ Claimant


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contends that fresh ration cards are not being issued by GNCTD and to support his contention he has placed reliance on the Authority of the Hon'ble High Court of Delhi dated 05.08.2022 in W.P. (C) 11633/2022, CM Application 34509/2022 titled "Poonam versus Union of India & Ors".

17. The Appellant/ Claimant has further contended that the purpose of the policy formulated by DDA is to ensure rehabilitation and relocation to economically weaker sections and would have to be interpreted in a broader and beneficial manner rather than in a narrow and pedantic manner by placing reliance on the Authority of the Hon'ble High Court of Delhi dated 30.01.2023 in W.P. (C) 315/2020 & CM Application 929/2020 titled "Smt. Beni versus Government of NCT Delhi & Ors." and another Authority of the Hon'ble High Court of Delhi dated 11.02.2010 in W.P. (C) 8904/2009, 7735/2007, 7317/2009 and 9246/2009 titled "Sudama Singh & Ors. versus Government of Delhi & Anr." and another Authority of the Hon'ble High Court of Delhi dated 04.07.2022 in W.P. (C) 4785/2008 & CM Application 9216/2008 titled "Samarpal & Ors. versus U01 & ors."
18. On the other hand it is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/26/99.1/870 dated 07.11.2022.
19. We have no dispute with regard to the proposition of law laid down in the authorities relied upon by the Appellant/ Claimant. It is humbly pointed out that Poonam's case supra is still pending and no final order has been passed. Therefore, rival contentions made in the


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pleadings of that case cannot take place of the proof. However, there is no doubt that the Appellate Authority has to take a holistic view of the matter and is required to consider all the documents before arriving at a conclusion as to whether the Appellant/ Claimant is entitled to rehabilitation or not. The appeal filed by the Appellant/ Claimant cannot be rejected by taking a narrow and pedantic manner but all the documents which may establish residence at the Jhuggi on the relevant date of 01.01.2015 have to be considered holistically. On this aspect reliance can also be placed on the Authority of the Hon'ble High Court of Delhi dated 01.08.2017 in W.P. (C) 5378/2017, CM Application 22718/2017 titled "Udal & Ors versus Delhi Urban Shelter Improvement Board & Ors".

20. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Pa rt-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of ii dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the ii dwellers must appear in the survey conducted by LM Department.
5. The ii dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. 11 dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground


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floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.

10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.

11. The ineligible 11 dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of ii Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/11 dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

21. As per Part—B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of

12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

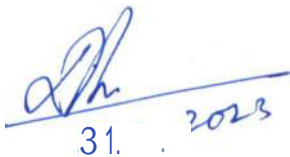
22. As already pointed out above, condition contained in Part—B Para 10 of DDA policy runs as under:

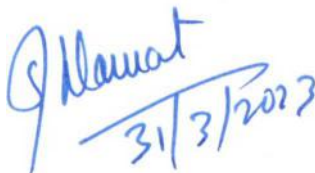
"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

23. Thus Part—B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

24. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of J1 dwellers must appear in at least on the voter list of the year' s 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.


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25. In the light of our discussion above, we shall now appraise the material placed on file by taking holistic & realistic view to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
26. The statement of the Appellant/ Claimant, Sanjeev Bhadra, has been recorded before us on 28.02.2023, wherein he has stated that his parents, Samiran Bhadra & Deepu, are having two sons, namely, Shyamal and Sanjeev Bhadra (Appellant/Claimant) and two daughters, namely, Shikha & Shivani. All the children are married. Shikha is married with Vivek and she is living in her matrimonial home in Ghaziabad. Shivani is married with Kunju Singh Thakur and living on the ground floor of Jhuggi No. C-248, Bhoomiheen Camp. Shyamal is married with Madhumita and having one daughter Bhoomi. Sanjeev Bhadra (Appellant/Claimant) is married with Gayatri.
27. The Appellant/ Claimant has stated that his family is having two adjoining Jhuggis bearing No. C-247 and C-248. Jhuggi No. C-247 is a double storey Jhuggi and it comprises of one room on each floor. His parents, Samiran Bhadra & Deepu, are living on the ground floor of the said Jhuggi No. C-247 and regarding that DDA has made allotment in favour of his mother Deepu. These facts are not disputed by DDA.
28. The Appellant/ Claimant has stated that his brother Shyamal is living on the first floor of the said Jhuggi No. C-247 along with his wife Madhumita & daughter Bhoomi. Shyamal has sought allotment from DDA against the first floor of the said Jhuggi but his claim was rejected by EDC and aggrieved by the same he has filed an appeal before the Appellate Authority. These facts are not disputed by DDA.
29. The Appellant/ Claimant has also stated that their second Jhuggi bearing number C-248 is also a double storey Jhuggi comprising of one room on each floor. Further his sister Shivani along with her family is living on the ground floor of the said Jhuggi No. C-248 and


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regarding that DDA has made allotment in favour of his sister Shivani. These facts are not disputed by DDA.

30. The Appellant/ Claimant has also stated that he along with his wife, Gayatri, is living on the first floor of the said Jhuggi of Shivani, which is bearing Jhuggi No. C-248/B. The Appellant/ Claimant has sought allotment from DDA against the said Jhuggi. But his claim has been rejected by DDA and aggrieved by the same he has filed the present Appeal No. 558 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-J, and prayed that DDA be directed to make allotment in his favour.
31. The statement of the Appellant/ Claimant shows that four persons of his family, namely, Deepu, Shivani, Shyamal & Sanjeev have sought allotments from DDA. Out of which DDA has made allotments in favour of two persons, namely, Deepu (mother) and Shivani (Sister). But the claims of the remaining two persons, Shyamal (Brother) & Sanjeev (Appellant/ Claimant) have been rejected by EDC and agreed by the same they have filed appeals before the appellate authority. It is pointed out that both the appeals shall be decided separately on their individual merits.
32. DDA has furnished the survey records along with two video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 28.02.2023 wherein he has stated that in one video clip of ground floor his sister Shivani is seen in her Jhuggi No. C-248 on the ground floor and a room & kitchen are also seen. She is heard saying that her bua's son (cousin) is living on her first floor. In the next video of first floor he (Sanjeev Bhadra-Appellant/Claimant) is seen in his Jhuggi No. C-248/B but no staircase is seen in the video as claimed by Sanjeev Bhadra. Here it is pertinent to point out that Shivani is the real sister of the present Appellant/Claimant Sanjeev Bhadra but it is not satisfactorily explained as to why in the video clip she is referring him to be her bua's son. However, the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey pucca Jhuggi No. C-248 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi, which is bearing Jhuggi No. C-248/B, for residential purposes.


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33. Accordingly, we have no hesitation in holding that the Jhuggi No. C-248 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant & his family has been using the first floor of the said Jhuggi, which was bearing Jhuggi No. C -248/B, for residential purposes.

34. The Appellant/Claimant has tendered his two Voter ID Cards bearing number ARE 1173954 (Annexure-A) and ARE 1173954 (Annexure-B), Aadhar Card (Annexure-C), Voter List of the year 2014 (Annexure-G) and Voter List of the year 2019 (Annexure-H).

35. It is pointed out that the Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B) bearing same numbers, i.e., ARE 1173954 and ARE 1173954. The first Voter ID Card bearing number ARE 1173954 (Annexure-A) is issued on 27.10.2008, much prior to the cutoff date of 01.01.2015. The second Voter ID Card bearing number ARE 1173954 (Annexure-B) is issued on 23.10.2020, much after the cutoff date of 01.01.2015. Both the Voter ID Cards, Annexure-A & Annexure-B, are bearing the same number ARE 1173954 and further in the Voter Lists, Annexure- G & Annexure-H, the number of the Voter ID Cards of the Appellant/Claimant is recorded to be ARE 1173954. It is pointed out that the name of the Appellant/Claimant appears at SI. No. 1081 in the Voter List of the year 2014 (Annexure-G) and at SI. No. 1163 in the Voter List of the year 2019 (Annexure-H). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

36. The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. C-248/B regarding which he has claimed allotment from DDA. The Appellant/Claimant has specifically stated that he had made an application No. 568290 dated 20.09.2013 (Annexure-I) for the issuance of the Ration Card but the same has yet not been approved by the Department of Food and Civil Supplies, Govt. of NCT of Delhi. Here it is pertinent to point out that the DDA policy reproduced in Para No. 11 above requires that the dweller claiming allotment against the first floor must possess a separate Ration Card on the cut off date of 01.01.2015. Hence

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merely making an application for issuance of the Ration Card is of no consequence till the approval is actually granted by the concerned authority and the Ration Card is ultimately issued. Thus the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor bearing No. C-248/B regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

37. The Appellant/ Claimant has also tendered the Voter Card No. ARE 1173962 (Annexure-D), & Aadhar Card (Annexure- E) of his wife Gayatri as well as the Electricity Bill (Annexure-F) and his Pass Book of SBI (Annexure-J). It is pointed out that the Voter Card No. ARE 1173962 (Annexure-D) has been issued on 02.12.2020, much after the cutoff date of 01.01.2015. The Electricity Bill (Annexure-F) shows that the connection was taken by the Appellant/Claimant on 23.05.2008. The Pass Book of SBI (Annexure-J) shows that the account was opened by the Appellant/ Claimant on 11.11.2009. It is pertinent to point out that the above mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above he was not having a separate Ration Card on the cut off date of 01.01.2015 in spite of the fact that he is claiming allotment against the upper floor.
38. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 in spite of the fact that he has claimed allotment against the first floor. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. C-248/B regarding which he has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.


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39. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/26/99.1/870 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit
40. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others" The file be consigned to records after due compliance.



(Ranbir Singh)

Jt. Secretary (Retd.) GOI

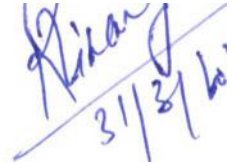
MEMBER



(Satish Ahlawat)

Addl. District & Sessions Judge (Retd.)

CHAIRMAN



(Rachna Tiwary)

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF 11 DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 574 of 2023

Date of Institution: 06.12.2022

Date of Order: 31.03.2023

Present: Appellant/ Claimant Neelam W/o Chandan Kumar Sah D/o Rameshwar Sah

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. Before appraising the material placed on file on merit, we will discuss the facts leading to filing of W.P. (C) 398/2023 & CM APPL. 1592/2023 titled "Sunil Kumar & ORS Versus Government of NCT of Delhi & ANR" before the Hon'ble High Court of Delhi
3. DDA has placed on file the copy of order dated 13.01.2023 passed by the Hon'ble High Court of Delhi in W.P. (C) 398/2023 & CM APPL. 1592/2023 titled "Sunil Kumar & ORS. versus Government of NCT of Delhi & ANR".
4. The perusal of the order dated 13.01.2023 shows that eleven Petitioners being aggrieved by the list dated 07.11.2022, published by the Eligibility Determination Committee ('[DC') have approached the Hon'ble High Court by way of filing the above mentioned petition. The petitioners have also alleged that they have made representations before the Appellate Authority. Accordingly, the Hon'ble High Court was of the view that the Petitioners must first avail and exhaust the remedy of appeal provided under the Rehabilitation Policy especially since the Petitioners are assailing a fact finding by the EDC. The Hon'ble High Court has accordingly directed this Appellate Authority to take up the matter on the date already fixed i.e., 10.04.2023 and dispose off the same expeditiously. The Hon'ble High Court has also directed Delhi Development Authority (Respondent No. 2

before the Hon'ble High Court) to place a copy of the orders on Appellate Authority's record and facilitate a hearing on 10.04.2023.

5. The details of the Appeals filed by the eleven Petitioners is given below:-

S.No	Applicant Name	Jhuggi No.	Appeal No.	Appeal Date	Remarks
1	Kashmir Lal Sbo Ram Singh	B-300	256/2023	24.11.2022	
2	Mahender Kumar Sbo Chander Bhan	B-550	555/2023	06.12.2022	
3	Satish Sbo Ganesh Prasad	B-87/2	570/2023	06.12.2022	
4	Mohini W/o Mukesh Kumar	B-300	257/2022	24.11.2022	
5	Mohit Kumar Sio Sh. Raj Babu	C-374	308/2023	28.11.2022	Appeal No. 308 of 2023 has already been rejected by the Appellate Authority on 21.01.2023 before communication of Order Dated 13.01.2023.
6	Sunil Kumar S/o Bihari Lal	C-537	47/2022	21.11.2022	
7	Sanjeev Bhadra Sbo Samiran Bhadra	C-248/B	558/2023	06.12.2022	
8	Kundan Kumar Shah Sbo Nand Kumar Shah	C-480	600/2023	08.12.2022	
9	Neelam W/o Chandan Kumar Sah	C-751	574/2023	06.12.2022	
10	Anil Kumar Sio Bihari Lal	D-219			EDC has not rejected the claim. No Appeal has been filed before the Appellate Authority.
11	Chandan Kumar Sah Sio Nand	D-580			EDC has not rejected the claim. No Appeal

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	Kumar Sah				has been filed before the Appellate Authority.

6. It is pointed out that two of the Petitioners, Anil Kumar & Chandan Kumar Sah (shown at SI. No. 10 & 11 in table in Para No. 5 above) have not made representations/Appeals before the Appellate Authority. However, the remaining nine Petitioners (shown at SI. No. 1 to 9 in table in Para No. 5 above) have made representations/Appeal before the Appellate Authority. But the Appeal No. 308 of 2023 filed by Appellant/Claimant Mohit Kumar (Petitioner shown at SI. No. 05 in table in Para No. 5 above) has already been rejected on 21.01.2023 before communication of Order Dated 13.01.2023.
7. It is also pointed out that DDA has placed on file the copy of another order dated 06.03.2023 passed by the Hon'ble High Court of Delhi in W.P. (C) 2801/2023 titled "Sunil Kumar & ORS. versus Government of NCT of Delhi & ANR" whereby the name of Anil Kumar & Chandan Kumar Sah (shown at SI. No. 10 & 11 in table in Para No. 5 above) were deleted from the array of parties.
8. In the light of the directions passed by the Hon'ble High Court it was directed by us to prepone the eight appeals filed by the remaining eight Petitioners (shown at SI. No-1 to 04 and 06 to 09 in table in Para No. 5 above) for conducting further proceedings on top priority for disposal on their respective merits.
9. All the above-mentioned eight Appeals stand disposed of vide separate orders dated 31.03.2023 as mentioned below:-

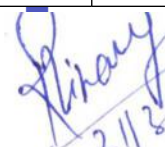
S. No.	Appeal No	Name of the Appellant/Claimant	Jhuggi No.	Result	Remarks
1.	47/2022 Dt. 21.11.2022	Sunil Kumar S/o Bihari Lal	C-537	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/Claimant was found not having requisite mandatory documents.
2.	256/2023 Dt. 21.11.2022	Kashmir Lal S/o Ram Singh	B-300	Appeal stands rejected vide Order Dt. 31.03.2023	Jhuggi No. B-300 was found to be solely used for commercial

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					purposes.
3.	257/2022 Dt. 24.11.2022	Mohini W/o Mukesh Kumar	B-300	Appeal stands rejected vide Order Dt. 31.03.2023	The Appellant/ Claimant was found to be not living in Jhuggi No. B-300 but has filed wrong claim by concocting wrong & false story.
4.	555/2023 Dt. 06.12.2022	Mahender Kumar S/o Chander Bhan	B-550	Appeal stands allowed vide Order Dt. 31.03.2023. DDA has been directed to make allotment in favour of Appellant/ Claimant.	Jhuggi No. B-550 was found to be used for commercial & residential purposes and Appellant/Claima nt was found to have all the requisite documents.
5.	558/2023 Dt. 06.12.2022	Sanjeev Bhadra S/o Samiran Bhadra	C- 248/B	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/Claima nt was found not having requisite mandatory documents.
6.	570/2023 Dt. 06.12.2022	Satish S/o Ganesh Prasad	B-87/2	Appeal stands rejected vide Order Dt.	Appellant/Claima nt has filed wrong claim to seek double allotment by concocting wrong & false story.
7.	574/2023 Dt. 06.12.2022	Neelam W/o Chandan Kumar Sah	C-751	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/Claima nt has forged documents and filed wrong claim by concocting wrong & false story.
8.	600/2023 Dt. 08.12.2022	Kundan Kumar Shah S/o Nand Kumar Shah	C-480	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/Claima nt was found not having requisite mandatory documents. The second floor is not covered


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					under the definition of upper floor under the DDA Policy.

10. Now we shall deal the present Appeal on merit.

11. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. C-751, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to .1.1 Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-751 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/63/015.G/1367 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 574 of 2023 has been filed by the present Appellant/ Claimant.

12.1n response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

13. The statement of the Appellant/Claimant has been recorded before us on 28.02.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-F, in support

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of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

14. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
15. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-751 was found to exist but she had failed to submit required documents, i.e., Voter ID Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card not Verified"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

BACKGROUND

16. It is the admitted case of the Appellant/ Claimant that she was married with Chandan and having two children, namely, Nikhil & Ayansh. The Appellant/ Claimant is living separately from her husband since 2019 and in the year 2022 they have taken divorce and now Appellant/ Claimant is living with her son Ayansh in Jhuggi No. C-751 whereas Nikhil is living with his father Chandan in Jhuggi No. D-61. Both of them have sought alternate allotments from DDA. The husband Chandan has sought allotment against Jhuggi No. D-61 and DDA has made allotment in his favour against Jhuggi No. D-61. Whereas the present Appellant/ Claimant has sought allotment against Jhuggi No. C-751. But her claim has been rejected by DDA and aggrieved by the same he has filed Appeal No. 574 of 2023 before the

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Appellate Authority for redressal. Therefore, both the husband & wife are seeking allotments from DDA even though on separate Jhuggis. We shall determine the legal position as to whether both the husband (Chandan) & wife (Neelam) can seek allotments from DDA or only either of them can exercise the option to claim allotment.

17. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-F, in support of her claim and prayed that DDA be directed to make allotment in her favour. It is argued on behalf of the Appellant/ Claimant that she fulfills the criteria and possesses all the requisite documents. Merely not having a Voter ID Card is of no consequence since she has furnished documents in proof of residence other than Voter ID Card. The Appellant/ Claimant contends that fresh ration cards are not being issued by GNCTD and to support his contention he has placed reliance on the Authority of the Hon'ble High Court of Delhi dated 05.08.2022 in W.P. (C) 11633/2022, CM Application 34509/2022 titled "Poonam versus Union of India & Ors".
18. The Appellant/ Claimant has further contended that the purpose of the policy formulated by DDA is to ensure rehabilitation and relocation to economically weaker sections and would have to be interpreted in a broader and beneficial manner rather than in a narrow and pedantic manner by placing reliance on the Authority of the Hon'ble High Court of Delhi dated 30.01.2023 in W.P. (C) 315/2020 & CM Application 929/2020 titled "Smt. Beni versus Government of NCT Delhi & Ors." and another Authority of the Hon'ble High Court of Delhi dated 11.02.2010 in W.P. (C) 8904/2009, 7735/2007, 7317/2009 and 9246/2009 titled "Sudama Singh & Ors. versus Government of Delhi & Anr." and another Authority of the Hon'ble High Court of Delhi dated 04.07.2022 in W.P. (C) 4785/2008 & CM Application 9216/2008 titled "Samarpal & Ors. versus U01 & ors."
19. It is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of ii Rehabilitation and Relocation Policy" provides that the Appellant/ Claimant must have all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and her name must also appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. But the Appellant/ Claimant do not fulfill the eligibility

criteria as per the guidelines issued by DDA because she was not having a Voter ID Card on the cutoff date of 01.01.2015 and she has tried to cheat & defraud DDA by using forged Voter ID Card and further she has come forward with a wrong & false story that she had taken divorce from her husband just to claim allotment from DDA inspite of the fact that DDA has already made allotment in favour of her husband, Chandan. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/63/015.G/1367 dated 07.11.2022.

20. We have no dispute with regard to the proposition of law laid down in the authorities relied upon by the Appellant/ Claimant. It is humbly pointed out that Poonam's case supra is still pending and no final order has been passed. Therefore, rival contentions made in the pleadings of that case cannot take place of the proof. However, there is no doubt that the Appellate Authority has to take a holistic view of the matter and is required to consider all the documents before arriving at a conclusion as to whether the Appellant/ Claimant is entitled to rehabilitation or not. The appeal filed by the Appellant/ Claimant cannot be rejected by taking a narrow and pedantic manner but all the documents which may establish residence at the Jhuggi on the relevant date of 01.01.2015 have to be considered holistically. On this aspect reliance can also be placed on the Authority of the Hon'ble High Court of Delhi dated 01.08.2017 in W.P. (C) 5378/2017, CM Application 22718/2017 titled "Udal & Ors versus Delhi Urban Shelter Improvement Board & Ors".
21. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate ii dwellers would be as under :-

1. The ii dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the 11 dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.

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5. The 11 dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the .1.1 dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible II dwellers will be removed from the .1.1 cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with photograph issued by


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the Principal of a Govt. School mentioning therein that the descendants of the II dwellers was the student of the School."

22. Further, the condition contained in Part—B Para No. 7 of DDA policy runs as under:

"Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The ii dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family."

23. Further the condition (c) contained in Terms and Conditions of Allotment of alternative Dwelling Unit of DDA policy runs as under:

"Allotment will be made in the Joint-name of the husband and wife occupying the jhuggi."

24. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further allotment can be made in favour of either of spouse. Therefore, when alternate allotment has been made in favour of husband then his wife cannot seek second allotment during the subsistence of their marriage. But in case husband and wife are living separately in two jhuggis and they have been officially divorced then they can claim separate alternate allotments against two Jhuggis where they are living separately.

25. Now in the light of the legal position discussed above in detail we shall discuss the oral and documentary evidence brought on record by the parties.

26. The statement of the Appellant/ Claimant, Neelam Sah, has been recorded before us on 28.02.2023, wherein she has stated that her in-laws, Nand Kumar & Chinta, are having our

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sons, namely, Chandra Shekhar, Rajiv, Chandan & Kundan. Her mother-in-law Chinta had expired in the year 2016. Chander Shekhar is married with Rinki and having four children. Rajiv is married with Pinky and having two children. Kundan is married with Putul and having one child.

27. The Appellant/ Claimant has stated that she was married with Chandan and having two children, namely, Nikhil & Ayansh. The Appellant/ Claimant is living separately from her husband since 2019 and in the year 2022 they have taken divorce and now Appellant/ Claimant is living with her son Ayansh in Jhuggi No. C-751 whereas Nikhil is living with his father Chandan in Jhuggi No. D-61.
28. The Appellant/ Claimant has stated that DDA has made allotment in favour of her father-in-law, Nand Kumar, against Jhuggi No. C- 480. Whereas Chandra Shekhar along with his wife Rinki & children is living in Jhuggi No. D-189 and DDA has made allotment in favour of Chandra Shekhar against the said Jhuggi No. D-189. Further, Rajiv along with his wife Pinky & children is living in Jhuggi No. C-880 and DDA has made allotment in favour of Rajiv against the said Jhuggi No. C-880. These facts are not disputed by DDA.
29. The Appellant/ Claimant has stated that Kundan along with his wife Putul & child is living in Jhuggi No. C-480 and has sought allotment but EDC has rejected his claim and aggrieved by the same he has file appeal No. 600 of 2023 before the Appellate Authority. These facts are not disputed by DDA.
30. The Appellant/ Claimant has stated that after taking divorce from her husband Kundan in the year 2019 she along with her son, Ayansh, is living separately in Jhuggi No C-751 whereas Kundan is living in Jhuggi No. D-61. and DDA has made allotment in favour of Kundan against the said Jhuggi No. D-61.

The Appellant/Claimant has also sought allotment from DDA against the said Jhuggi No. C- 751 but her claim has been rejected by EDC and aggrieved by the same she has filed the present Appeal No. 574 of 2023 for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure F, and prayed that DDA be directed to make allotment in her favour.


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31. DDA has furnished the survey records along with one video clip. The video clips was played before the Appellant/Claimant when her statement was recorded before us on 28.02.2023 wherein she has stated that in the video clips she (Neelam- Appellant/Claimant) is seen in her Jhuggi No. C-751 and her room & kitchen are also seen.
32. The statement of the Appellant/ Claimant shows that six members of the family of the present Appellant/ Claimant, namely, Nand Kumar, Chandre Sekhar, Rajiv, Chandan, Kundan & Neelam, had sought allotments from DDA. Out of whom DDA has made four allotments in favour of Nand Kumar (father-in-law), Chandre Sekhar (brother-in-law), Rajiv (brother-in-law) & Chandan (husband) but the claims of two members, Kundan (brother-in-law) & Neelam (Appellant/ Claimant), have been rejected by EDC and aggrieved by the same Kundan has filed Appeal No. 600 of 2023 whereas the present Appellant/ Claimant, Neelam, has filed the present Appeal No. 574 of 2023. It is pointed out that both the Appeal No. 574 of 2023 and Appeal No. 600 of 2023 shall be decided separately on their individual merits.
33. It is also pertinent to point out that Kundan & Neelam are husband & wife and both of them have admittedly sought allotments from DDA against Jhuggi No. D-61 and C-751 respectively. It is not disputed that DDA has made allotment in favour of Kundan against the Jhuggi No. D-61 but the claim of the present Appellant/ Claimant, Neelam, has been rejected by EDC.

FRAUD COMMITTED BY THE APPELLANT/CLAIMANT

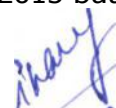
34. The Appellant/ Claimant has stated that she is living separately from her husband since 2019 and had finally taken divorce in the year 2022. It is pertinent to point out that the date, month & year of divorce is not disclosed and further the order granting divorce is also not placed on file. This creates dent in the story put forward by the Appellant/ Claimant.
35. It seems that this ground has been taken just to claim one more allotment from DDA. Had there been a legal divorce then the Appellant/ Claimant would have disclosed the date, month & year of Divorce and certainly would have placed the copy of order granting divorce. This shows that the Appellant/ Claimant in collusion with her family members

have tried to cheat & defraud DDA to maximize allotment by hook or crook and have concocted a wrong and false story of divorce.

36. Even if for the sake of arguments, the statement of the Appellant/ Claimant is taken to be gospel truth then also it is of no help to her because the Appellant/ Claimant has specifically alleged that they have started living separately in the year 2019 and finally have taken divorce in the year 2022. Thus on the cutoff date of 01.01.2015 the marriage was in subsistence and accordingly Neelam (Appellant/ Claimant) was legally wedded wife of Kundan on the relevant date of 01.01.2015. Therefore, we have no hesitation in holding that the present Appellant/ Claimant, Neelam Sah, is not entitled to claim alternate allotment from DDA against Jhuggi No. C-751, Bhoomiheen Camp because DDA has already made alternate allotment in favour of her husband, Kundan, against Jhuggi No. D-61, Bhoomiheen Camp during the subsistence of their marriage.

FORGERY COMMITTED BY THE APPELLANT/CLAIMANT

37. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
38. The Appellant/Claimant has tendered her two Voter ID Cards bearing same number, ARE 2059441 (Annexure-A & Annexure-B), Voter List of 2019 (Annexure-C), Bank Pass Book of Canara Bank (Annexure-D) showing account was opened on 04.02.2010, Aadhar Card (Annexure-E) and Ration Card (Annexure-F) issued on 06.11.2020.
39. It is pointed out that both the two Voter ID Cards (Annexure-A & Annexure-B) are bearing same number, ARE 2059441. The first Voter ID Card bearing No. ARE 2059441 (Annexure-A) has been issued on 29.03.2013 and second Voter Card bearing No. ARE 2059941 (Annexure-B) has been issued on 29.03.2016.
40. The Appellant/Claimant has categorically stated that she very well knew that the cutoff date to determine the eligibility for alternate allotment was 01.01.2015 but she was not



having a Voter Card issued prior to the cutoff date of 01.01.2015 but she was having a Voter ID Card bearing No. ARE 2059941 (Annexure-B), which has been issued on 29.03.2016. Therefore she paid Rs.2,000/- to the broker and got a forged Voter ID Card prepared by showing the date of issuance to be 29.03.2013 and submitted the same to DDA to seek allotment. This is precisely the reason that her forged document issued on 29.03.2013 could not be verified as the Appellant/Claimant has never casted her vote in the year 2013 and her name appears only in the voter List of the year 2109 at SL 819. Thus the first Voter ID Card bearing No. ARE 2059441 (Annexure-A), which has been issued on 29.03.02.2013 is admittedly a forged document.

41. The Appellant/Claimant has admitted that the first Voter ID Card bearing No. ARE 2059441 (Annexure-A) dated 29.03.2013 is a forged document and she had never casted her vote by using the said Voter ID Card bearing No. ARE 2059441 (Annexure-A) dated 29.03.2013. Further she is having a genuine Voter ID Card, which is bearing No. ARE 2059941 (Annexure-B), which has been issued on 29.03.2016 and by using it she had casted her vote and accordingly her name appears at SI. No. 819 in the Voter List of the year 2019 (Annexure-C). But the fact remains that she had forged the document, i.e., Voter ID Card bearing No. ARE 2059441 (Annexure-A) dated 29.03.2013 and used it as genuine to grab allotment from DDA against Jhuggi No. C-751.
42. It is pertinent to point out that the Appellant/ Claimant has categorically admitted to have got a forged Voter ID made by giving bribe to an agent and got her actual Voter ID card No ARE 2059941 issued on 29.03.2016 changed into a new Voter Id Card bearing the same number in back date i.e 20.03.2013 because her valid Voter ID was made after the cut off date of 01.01.2015. The statement/ confession of the Appellant /Claimant is a clincher piece of evidence thereby showing that the Appellant/Claimant has tried to defraud & cheat DDA authorities by submitting a forged document and she had tried to claim allotment from DDA thereby fully knowing that she is using forged documents.
43. Therefore, we have no hesitation in holding that the first Voter ID Card bearing No. ARE 2059441 (Annexure-A) dated 29.03.2013, is a forged document. The second Voter Card bearing No. ARE 2059941 (Annexure-B) has been issued on 29.03.2016, much after the cutoff date of 01.01.2015 and accordingly the question of her name appearing in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) does not arise.

Thus, the Appellant/ Claimant was not having a valid Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

44. The material placed on file shows that the present Appellant/ Claimant, Neelam Sah, is not entitled to claim alternate allotment from DDA against Jhuggi No. C-751, Bhoomiheen Camp because DDA has already made alternate allotment in favour of her husband, Kundan, against Jhuggi No. D-61, Bhoomiheen Camp during the subsistence of their marriage and further the first Voter ID Card bearing No. ARE 2059441 (Annexure-A) dated 29.03.2013, submitted by the Appellant/ Claimant is also found to be a forged document. The second Voter Card bearing No. ARE 2059941 (Annexure-B) has been issued on 29.03.2016, much after the cutoff date of 01.01.2015 and accordingly the question of her name appearing in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) does not arise. It is pointed out that the documents, Annexure-A to Annexure-F, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the present Appellant/ Claimant, Neelam Sah, is not entitled to claim alternate allotment from DDA against Jhuggi No. C-751, Bhoomiheen Camp because DDA has already made alternate allotment in favour of her husband, Kundan, against Jhuggi No. D-61, Bhoomiheen Camp during the subsistence of their marriage and further the first Voter ID Card bearing No. ARE 2059441 (Annexure-A) dated 29.03.2013, submitted by the Appellant/ Claimant is also found to be a forged document and accordingly the Appellant/ Claimant was not having the requisite mandatory document, i.e., a valid Voter ID Card, on the cutoff date of 01.01.2015 and her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

45. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/63/015.G/1367 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.


31-3-2023

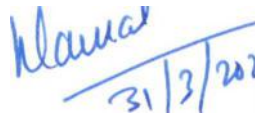
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46. Before parting of this order it is pertinent to point out that the present Appellant/ Claimant, Neelam Sah, has committed forgery by submitting forged Voter ID Card No. ARE 2059941 (Annexure-A) to DDA Authority thereby showing it to have been issued on 29.03.2013 whereas it was actually issued on 20.03.2016 with an intention to cheat & defraud DDA and with a wrongful intention to claim alternate allotment. Thus Appellant/ Claimant with dishonest & fraudulent intention has submitted a wrong & false claim with the DDA authority for claiming alternate allotment against Jhuggi No. C-751 on the basis of forged document, i.e., Voter ID Card bearing No. ARE 2059441 (Annexure-A) dated 29.03.2013. The concerned competent Administrative Department/Authority shall be at liberty to lodge criminal complaint with the police against the present Appellant/ Claimant, Neelam Sah.
47. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.



(Ravi Singh)
 Joint Secretary (Retd.) GOI
 MEMBER



(Stish Ahlawat)
 Addl. District & Sessions Judge (Retd.)
 CHAIRMAN



(Rachna Tiwary)
 EXPERT MEMBER

BE ORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 600 of 2023

Date of Institution: 08.12.2022

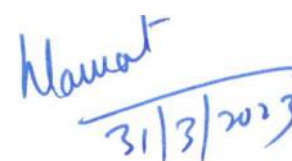
Date of Order: 31.03.2023

Present: Appellant/ Claimant Kundan Kumar Sah S/o Nand Kumar Sah

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. Before appraising the material placed on file on merit, we will discuss the facts leading to filing of W.P. (C) 398/2023 & CM APPL. 1592/2023 titled "Sunil Kumar & ORS. Versus Government of NCT of Delhi & ANR" before the Hon'ble High Court of Delhi.
3. DDA has placed on file the copy of order dated 13.01.2023 passed by the Hon'ble High Court of Delhi in W.P. (C) 398/2023 & CM APPL. 1592/2023 titled "Sunil Kumar 84 ORS. versus Government of NCT of Delhi & ANR".
4. The perusal of the order dated 13.01.2023 shows that eleven Petitioners being aggrieved by the list dated 07.11.2022, published by the Eligibility Determination Committee (`EDC') have approached the Hon'ble High Court by way of filing the above mentioned petition. The petitioners have also alleged that they have made representations before the Appellate Authority. Accordingly, the Hon'ble High Court was of the view that the Petitioners must first avail and exhaust the remedy of appeal provided under the Rehabilitation Policy especially since the Petitioners are assailing a fact finding by the EDC. The Hon'ble High Court has accordingly directed this Appellate Authority to take up the matter on the date already fixed i.e., 10.04.2023 and dispose off the same expeditiously. The Hon'ble High Court has also directed Delhi Development Authority (Respondent No. 2 before the Hon'ble High Court) to place a copy of the orders on Appellate Authority's record and facilitate a hearing on 10.04.023.

 2023 

. The details of the Appeals filed by the eleven Petitioners is given below:-

S.No.	Applicant Name	Jhuggi No.	Appeal No.	Appeal Date	Remarks
1	Kashmir Lal Sbo Ram Singh	B-300	256/2023	24.11.2022	
2	Mahender Kumar Sbo Chander Bhan	B-550	555/2023	06.12.2022	
3	Satish Sbo Ganesh Pra sad	B-87/2	570/2023	06.12.2022	
4	Mohini W/o Mukesh Kumar	B-300	257/2022	24.11.2022	
5	Mohit Kumar Sbo Sh. Raj Babu	C-374	308/2023	28.11.2022	Appeal No. 308 of 2023 has already been rejected by the Appellate Authority on 21.01.2023 before communication of Order Dated 13.01.2023.
6	Sunil Kumar S/o Bihari Lal	C-537	47/2022	21.11.2022	
7	Sanjeev Bhadra S/o Samiran Bhadra	C-248/B	558/2023	06.12.2022	
8	Kundan Kumar Shah Sio Nand Kumar Shah	C-480	600/2023	08.12.2022	
9	Neelam W/o Chandan Kumar Sah	C-751	574/2023	06.12.2022	
10	Anil Kumar Sbo Bihari Lal	D-219			EDC has not rejected the claim. No Appeal has been filed before the Appellate Authority.
11	Chandan Kumar Sah S/o Nand Kumar Sah	D-580			EDC has not rejected the claim. No Appeal has been filed before the Appellate Authority.

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6. It is pointed out that two of the Petitioners, Anil Kumar & Chandan Kumar Sah (shown at SI. No. 10 & 11 in table in Para No. 5 above) have not made representations/Appeals before the Appellate Authority. However, the remaining nine Petitioners (shown at SI. No. 1 to 9 in table in Para No. 5 above) have made representations/Appeal before the Appellate Authority. But the Appeal No. 308 of 2023 filed by Appellant/Claimant Mohit Kumar (Petitioner shown at SI. No. 05 in table in Para No. 5 above) has already been rejected on 21.01.2023 before communication of Order Dated 13.01.2023.
7. It is also pointed out that DDA has placed on file the copy of another order dated 06.03.2023 passed by the Hon'ble High Court of Delhi in W.P. (C) 2801/2023 titled "Sunil Kumar & ORS. versus Government of NCT of Delhi & ANR" whereby the name of Anil Kumar & Chandan Kumar Sah (shown at SI. No. 10 & 11 in table in Para No. 5 above) were deleted from the array of parties.
8. In the light of the directions passed by the Hon'ble High Court it was directed by us to prepone the eight appeals filed by the remaining eight Petitioners (shown at SI. No-1 to 04 and 06 to 09 in table in Para No. 5 above) for conducting further proceedings on top priority for disposal on their respective merits.
9. All the above-mentioned eight Appeals stand disposed of vide separate orders dated 31.03.2023 as mentioned below:-

S. No.	Appeal No.	Name of the Appellant/Claimant	Jhuggi No.	Result	Remarks
1.	47/2022 Dt. 21.11.2022	Sunil Kumar S/o Bihari Lal	C-537	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/Claimant was found not having requisite mandatory documents.
2.	256/2023 Dt. 21.11.2022	Kashmir Lal S/o Ram Singh	B-300	Appeal stands rejected vide Order Dt. 31.03.2023	Jhuggi No, B-300 was found to be solely used for commercial purposes.
3.	257/2022 Dt. 24.11.2022	Mohini W/o Mukesh Kumar	B-300	Appeal stands rejected vide Order Dt. 31.03.2023	The Appellant/Claimant was found to be not living in Jhuggi No. B-300 but

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				31.03.2023	has filed wrong claim by concocting wrong & false story.
4.	555/2023 Dt. 06.12.2022	Mahender Kumar S/o Chander Bhan	B-550	Appeal stands allowed vide Order Dt. 31.03.2023 . DDA has been directed to make allotment in favour of Appellant/ Claimant.	Jhuggi No. B-550 was found to be used for commercial & residential purposes and Appellant/Claimant was found to have all the requisite documents.
5.	558/2023 Dt. 06.12.2022	Sanjeev Bhadra S/o Samiran Bhadra	0-248/B	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/Claimant was found not having requisite mandatory documents.
6.	570/2023 Dt. 06.12.2022	Satish S/o Ganesh Prasad	B-87/2	Appeal stands rejected vide Order Dt.	Appellant/Claimant has filed wrong claim to seek double allotment by concocting wrong & false story.
7.	574/2023 Dt. 06.12.2022	Neelam W/o Chandan Kumar Sah	C-751	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/Claimant has forged documents and filed wrong claim by concocting wrong & false story.
8.	600/2023 Dt. 08.12.2022	Kundan Kumar Shah S/o Nand Kumar Shah	C-480	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/Claimant was found not having requisite mandatory documents. The second floor is not covered under the definition of upper floor under the DDA Policy.

10. Now we shall deal the present Appeal on merit.



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1. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-480, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of II Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to 1.1 Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-480 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/63/14.2/1366 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 600 of 2023 has been filed by the present Appellant/ Claimant.

12.1n response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

13. The statement of the Appellant/Claimant has been recorded before us on 28.02.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

14. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised. ffl

- ..5. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-480 was found to exist on the upper floor but he had failed to submit required documents, i.e., Voter ID Card & separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.

16. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour. It is argued on behalf of the Appellant/ Claimant that he fulfills the criteria and possesses all the requisite documents. Merely not having a separate ration card is of no consequence since he has furnished documents in proof of residence other than ration card. The Appellant/ Claimant contends that fresh ration cards are not being issued by GNCTD and to support his contention he has placed reliance on the Authority of the Hon'ble High Court of Delhi dated 05.08.2022 in W.P. (C) 11633/2022, CM Application 34509/2022 titled "Poonam versus Union of India & Ors".
17. The Appellant/ Claimant has further contended that the purpose of the policy formulated by DDA is to ensure rehabilitation and relocation to economically weaker sections and would have to be interpreted in a broader and beneficial manner rather than in a narrow and pedantic manner by placing reliance on the Authority of the Hon'ble High Court of Delhi dated 30.01.2023 in W.P. (C) 315/2020 & CM Application 929/2020 titled "Smt. Beni versus Government of NCT Delhi & Ors." and another Authority of e Hon'ble High Court

of Delhi dated 11.02.2010 in W.P. (C) 8904/2009, 7735/2007, 7317/2009 and 9246/2009 titled "Sudama Singh & Ors. versus Government of Delhi & Anr." and another Authority of the Hon'ble High Court of Delhi dated 04.07.2022 in W.P. (C) 4785/2008 & CM Application 9216/2008 titled "Samarpal & Ors. versus U01 & ors."

- 18.** On the other hand, it is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate 11 dwellers of .I.1 Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor and further he was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/63/14.2/1366 dated 07.11.2022.

- 19.** We have no dispute with regard to the proposition of law laid down in the authorities relied upon by the Appellant/ Claimant. It is humbly pointed out that Poonam's case supra is still pending and no final order has been passed. Therefore, rival contentions made in the pleadings of that case cannot take place of the proof. However, there is no doubt that the Appellate Authority has to take a holistic view of the matter and is required to consider all the documents before arriving at a conclusion as to whether the Appellant/ Claimant is entitled to rehabilitation or not. The appeal filed by the Appellant/ Claimant cannot be rejected by taking a narrow and pedantic manner but all the documents which may

establish residence at the Jhuggi on the relevant date of 01.01.2015 have to be considered holistically. On this aspect reliance can also be placed on the Authority of the Hon'ble High Court of Delhi dated 01.08.2017 in W.P. (C) 5378/2017, CM Application 22718/2017 titled "Udal & Ors versus Delhi Urban Shelter Improvement Board & Ors".

20. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the 1.1 dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of .I.1 dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The .1.1 dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. 11 dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The II dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi is being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.

11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of ii Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the" dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

21. As per Part—B Para 6 of DDA policy 11 dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining docume


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ANELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

22. It is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part—B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

23. It is pointed out that in the policy the words *"First Floor or Second Floor or Third Floor"* are intentionally not used but the word *"Upper Floor"* is used. So in the cases where the Jhuggi is double storey there is no confusion because the *"First Floor"* of that Jhuggi without confusion is covered under the definition of *"Upper Floor"*. But in the cases where the Jhuggi is constructed more than double storey, then dispute arises with respect to the definition of *"Upper Floor"*. The moot question involved is whether the dwellers living on the second floor or third floor, akin to the dweller living on the first floor, shall also be entitled for alternative allotment if they possess requisite documents or not. In simple terms whether the word *"Upper Floor"* only connotes the *"First Floor"* or it also includes *"Second Floor"* & *"Third Floor"* of the Jhuggi.

24. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card and there is no doubt instead of using the word *"First Floor"* the word *"Upper Floor"* has been used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further expanded to include the dweller living on the second & third floors. Furthermore, the words *"Upper Floor"* cannot be interpreted to be used in plural as *"Upper Floors"* by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -

"13. Gender and number:- In all Central Acts and Regulations unless there is anything repugnant in the subject or context,-

- (1) words importing the masculine gender shall also be taken to include females; and
 (2) words in the singular shall include the plural, and vice versa.

25. The bare perusal of Part—B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitle for alternative allotment.

26. Thus we have no hesitation in holding that the words "*Upper Floor*" used in the DDA policy without confusion connotes and includes only the "First Floor" of the Jhuggi. Thus the "Second Floor" & "Third Floor" of the Jhuggi are not included in the definition of the words "*Upper Floor*" used in the policy. In simple terms the word "Upper Floor" only connotes the "First Floor" of the Jhuggi and it does not include the "Second Floor" & "Third Floor" of the Jhuggi.

In view of the matter the words "upper floor" used in Part—B Para 10 of the DDA policy only denotes first floor and not all the floors above the first floor meaning thereby that the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

27. Thus Part—B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This make it clear that as per DDA policy, the dwell r claiming allotment


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against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

28. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the ii dwellers must be a citizen of India and not less than 18 years of age and further also that the name of ii dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
29. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.
30. The statement of the Appellant/ Claimant, Kundan Kumar Sah, has been recorded before us on 28.02.2023, wherein he has stated that his parents Narender Kumar Sah & Chinta Devi, are having four sons, namely, Chandra Shekhar, Rajiv, Chandan and Kundan (Appellant/ Claimant). All the children are married. Chandra Shekhar is married with Rinki and having four children. Rajiv is married with Pinki and having two children. Chandan is married with Neelam and having two children but they are divorced. Kundan (Appellant/ Claimant) is married with Putul and having one child Shaurya.

1. The Appellant/ Claimant has stated that his family is having a triple storey Jhuggi No. C-480 and it comprised of one room on each floor. His parents, Nand Kumar & Chinta Devi (up till her death in 2016) are living on the ground floor of the said Jhuggi No.C-480. His father Nand Kumar has sought allotment against the ground floor of Jhuggi No C-480 and regarding that DDA has made allotment in favour of Nand Kumar. These facts are not disputed by DDA.
32. The Appellant/ Claimant has also stated that his maternal uncle Dinesh Sah is living on the first floor of the said Jhuggi No. C-480 and has sought allotment against the said Jhuggi but the claim of Dinesh Shah has been rejected by DDA but he has not filed any appeal before the Appellate Authority. These facts are not disputed by DDA.
33. The Appellant/ Claimant has further stated that he along with his wife Putul and son is living on the second floor of the said Jhuggi No. C-480. The Appellant/ Claimant has sought allotment from DDA against the second floor of the said Jhuggi. But his claim has been rejected by DDA and aggrieved by the same he has filed the present Appeal No. 600 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-J, and prayed that DDA be directed to make allotment in his favour.
34. DDA has furnished the survey records along with six video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 28.02.2023 wherein he has stated that in the first video clip his father Nand Kumar is seen in his Jhuggi on the ground floor and a kitchen is seen in the video but no separate room is visible. In the next three video clips of first floor one pucca staircase is seen going from the ground floor to the first floor and the Appellant/Claimant is seen holding a slate in his hand in which "Dinesh Shah, C-480 FE is written" further Kundan is heard saying that his mama Dinesh lives on the first floor but he has gone away to attend the funeral of his mother-in-law, who had died of a heart attack and that is why he is getting the survey of Dinesh conducted on his behalf in his absence.
35. The Appellant/Claimant has further stated that the next two videos were of the second floor in which an iron ladder is seen going from the first to the second floor and he (Kundan Kumar Sah-Appellant-Claimant) is seen standing in his room on the second floor. A room


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and kitchen are also seen in these videos. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. C-480 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the second floor of the said Jhuggi for residential purposes.

36. Accordingly, we have no hesitation in holding that the Jhuggi No. C-480 in Bhoomiheen Camp is a pucca triple storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant has been using the second floor of the said Jhuggi for residential purposes.
37. It is pointed out that as per our discussion in detail above, we have held that the second floor is not covered under the definition of "Upper Floor" under the policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor under Part—B Para 10 of the policy.
38. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1519312 (Annexure-A), Aadhar Card (Annexure-B), Voter List of the year 2014 (Annexure-I) & Voter List of the year 2019 (Annexure-J).
39. It is pointed out that the Voter ID Card bearing No. ARE 1519312 (Annexure-A) has been issued on 15.02.2019, much after the cutoff date of 01.01.2015. But it is pointed out that the Voter ID Card number of the Appellant/Claimant is mentioned to be ARE 1519312 in both the Voter List of the year 2014 (Annexure-I) & Voter List of the year 2019 (Annexure-1). Further the name of the Appellant/Claimant appears at SI. No. 671 in the Voter List of the year 2014 (Annexure-I) and at SI. No. 709 in the Voter List of the year 2019 (Annexure-J). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

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3. The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the second floor bearing No. C-480 regarding which he has claimed allotment from DDA. Thus the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the second floor bearing No. C-480 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

41 The Appellant/Claimant has tendered the Voter ID Card No. ARE 2198216 dated 05.12.2018 (Annexure-C), Aadhar Card (Annexure-D) of his wife Putul, Aadhar Card (Annexure-E) of his son Shaurya, Pass Book of Canara Bank (Annexure-F), Backward Certificate (Annexure-G), Income Certificate (Annexure-H). It is pointed out that the Voter ID Card No. ARE 2198216 (Annexure-C) has been issued on 05.12.2018, much after the cutoff date of 01.01.2015. The Pass Book of Canara Bank (Annexure-F) shows that the account was opened on 23.06.2014 and Backward Certificate (Annexure-G) was issued on 23.08.2011 whereas the Income Certificate (Annexure-H) was issued on 08.07.2022. It is pointed out that the abovementioned documents, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 in spite of the fact that he is claiming allotment against the upper floor.

42. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part—B Para 10 of the policy. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. C-480 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part—B Para 10 of the policy and further he was not having the requisite mandatory document, i.e., a

separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

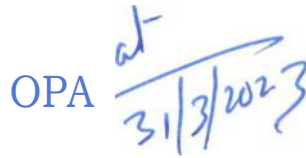
43. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/63/14.2/1366 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.
44. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.



(Ranbir Singh)

it. Secretary (Retd.) GOI

MEMBER



(Satish Ahlawat)

Addl. District & Sessions Judge (Retd.)

CHAIRMAN



(Rachna Tiwary)

EXPERT MEMBER

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BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JI DWELLERS OF BHOOIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 47 of 2022

Date of Institution: 21.11.2022

Date of Order: 31.03.2023

Present: Appellant/ Claimant Sunil Kumar Sbo Bihari Lal

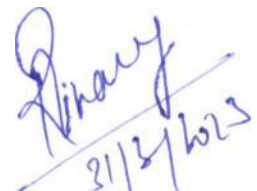
Sh. Prakash Chand, Dy. Director and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. Before appraising the material placed on file on merit, we will discuss the facts leading to filing of W.P. (C) 398/2023 & CM APPL. 1592/2023 titled "Sunil Kumar & ORS. Versus Government of NCT of Delhi & ANR" before the Hon'ble High Court of Delhi.
3. DDA has placed on file the copy of order dated 13.01.2023 passed by the Hon'ble High Court of Delhi in W.P. (C) 398/2023 & CM APPL. 1592/2023 titled "Sunil Kumar & ORS. versus Government of NCT of Delhi & ANR".
4. The perusal of the order dated 13.01.2023 shows that eleven Petitioners being aggrieved by the list dated 07.11.2022, published by the Eligibility Determination Committee ('EDC') have approached the Hon'ble High Court by way of filing the above mentioned petition. The petitioners have also alleged that they have made representations before the Appellate Authority. Accordingly, the Hon'ble High Court was of the view that the Petitioners must first avail and exhaust the remedy of appeal provided under the Rehabilitation Policy especially since the Petitioners are assailing a fact finding by the EDC. The Hon'ble High Court has accordingly directed this Appellate Authority to take up the matter on the date already fixed i.e., 10.04.2023 and dispose off the same expeditiously. The Hon'ble High Court has also directed Delhi Development Authority (Respondent No. 2 before the Hon'ble High Court) to place a copy of the orders on Appellate Authority's record and facilitate a hearing on 10.04.2023.



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5. The details of the Appeals filed by the eleven Petitioners is given below:-

S.No.	Applicant Name	Jhuggi No.	Appeal No.	Appeal Date	Remarks
1	Kashmir Lal S/o Ram Singh	B-300	256/2023	24.11.2022	
2	Mahender Kumar S/o Chander Bhan	B-550	555/2023	06.12.2022	
3	Satish S/o Ganesh Prasad	B-87/2	570/2023	06.12.2022	
4	Mohini W/o Mukesh Kumar	B-300	257/2022	24.11.2022	
5	Mohit Kumar Sb o Sh. Raj Babu	C-374	308/2023	28.11.2022	Appeal No. 308 of 2023 has already been rejected by the Appellate Authority on 21.01.2023 before communication of Order Dated 13.01.2023.
6	Sunil Kumar S/o Bihari Lal	C-537	47/2022	21.11.2022	
7	Sanjeev Bhadra S/o Samiran Bhadra	C-248/B	558/2023	06.12.2022	
8	Kundan Kumar Shah Sb o Nand Kumar Shah	C-480	600/2023	08.12.2022	
9	Neelam W/o Chandan Kumar Sah	C-751	574/2023	06.12.2022	
10	Anil Kumar Sb o Bihari Lal	D-219			EDC has not rejected the claim. No Appeal has been filed before the Appellate Authority.
11	Chandan Kumar Sah S/o Nand Kumar Sah	D-580			EDC has not rejected the claim. No Appeal has been filed before the Appellate Authority.

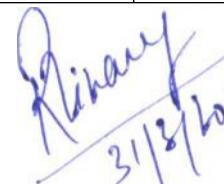
6. It is pointed out that two of the Petitioners, Anil Kumar & Chandan Kumar Sah (shown at SI. No. 10 & 11 in table in Para No. 5 above) have not made representations/Appeals before the Appellate Authority. However, the remaining nine Petitioners (shown at SI. No. 1 to 9 in table in Para No. 5 above) have made representations/Appeal before the Appellate Authority. But the Appeal No. 308 of 2023 filed by Appellant/Claimant Mohit Kumar (Petitioner shown at SI. No. 05 in table in Para No. 5 above) has already been rejected on 21.01.2023 before communication of Order Dated 13.01.2023.

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7. It is also pointed out that DDA has placed on file the copy of another order dated 06.03.2023 passed by the Hon'ble High Court of Delhi in W.P. (C) 2801/2023 titled "Sunil Kumar & ORS. versus Government of NCT of Delhi & ANR" whereby the name of Anil Kumar & Chandan Kumar Sah (shown at SI. No. 10 & 11 in table in Para No. 5 above) were deleted from the array of parties.
8. In the light of the directions passed by the Hon'ble High Court it was directed by us to prepone the eight appeals filed by the remaining eight Petitioners (shown at SI. No-1 to 04 and 06 to 09 in table in Para No. 5 above) for conducting further proceedings on top priority for disposal on their respective merits.
9. All the above-mentioned eight Appeals stand disposed of vide separate orders dated 31.03.2023 as mentioned below:-

S. No.	Appeal No	Name of the Appellant/Claimant	Jhuggi No.	Result	Remarks
1.	47/2022 Dt. 21.11.2022	Sunil Kumar S/o Bihari Lal	C-537	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/Claimant was found not having requisite mandatory documents.
2.	256/2023 Dt. 21.11.2022	Kashmir Lal S/o Ram Singh	B-300	Appeal stands rejected vide Order Dt. 31.03.2023	Jhuggi No. B-300 was found to be solely used for commercial purposes.
3.	257/2022 Dt. 24.11.2022	Mohini W/o Mukesh Kumar	B-300	Appeal stands rejected vide Order Dt. 31.03.2023	The Appellant/Claimant was found to be not living in Jhuggi No. B-300 but has filed wrong claim by concocting wrong & false story.
4.	555/2023 Dt. 06.12.2022	Mahender Kumar S/o Chander Bhan	B-550	Appeal stands allowed vide Order Dt. 31.03.2023. DDA has been directed to make allotment in favour of Appellant/Claimant.	Jhuggi No. B-550 was found to be used for commercial & residential purposes and Appellant/Claimant was found to have all the requisite documents.





5.	558/2023 Dt. 06.12.2022	Sanjeev Bhadra Sbo Samiran Bhadra	C-248/B	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/Claimant was found not having requisite mandatory documents.
6.	570/2023 Dt. 06.12.2022	Satish Sic) Ganesh Prasad	B-87/2	Appeal stands rejected vide Order Dt.	Appellant/Claimant has filed wrong claim to seek double allotment by concocting wrong & false story.
7.	574/2023 Dt. 06.12.2022	Neelam W/o Chandan Kumar Sah	C-751	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/Claimant has forged documents and filed wrong claim by concocting wrong & false story.
8.	600/2023 Dt. 08.12.2022	Kundan Kumar Shah S/o Nand Kumar Shah	C-480	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/Claimant was found not having requisite mandatory documents. The second floor is not covered under the definition of upper floor under the DDA Policy.

10. Now we shall deal the present Appeal on merit.

11. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-537, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoonniheen Camp wherein the Appellant/

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valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

16. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-P, in support of his claim and prayed that DDA be directed to make allotment in his favour. It is argued on behalf of the Appellant/ Claimant that he fulfills the criteria and possesses all the requisite documents. Merely not having a separate ration card is of no consequence since he has furnished documents in proof of residence other than ration card. The Appellant/ Claimant contends that fresh ration cards are not being issued by GNCTD and to support his contention he has placed reliance on the Authority of the Hon'ble High Court of Delhi dated 05.08.2022 in W.P. (C) 11633/2022, CM Application 34509/2022 titled "Poonam versus Union of India & Ors".
17. The Appellant/ Claimant has further contended that the purpose of the policy formulated by DDA is to ensure rehabilitation and relocation to economically weaker sections and would have to be interpreted in a broader and beneficial manner rather than in a narrow and pedantic manner by placing reliance on the Authority of the Hon'ble High Court of Delhi dated 30.01.2023 in W.P. (C) 315/2020 & CM Application 929/2020 titled "Smt. Beni versus Government of NCT Delhi & Ors." and another Authority of the Hon'ble High Court of Delhi dated 11.02.2010 in W.P. (C) 8904/2009, 7735/2007, 7317/2009 and 9246/2009 titled "Sudama Singh & Ors. versus Government of Delhi & Anr." and another Authority of the Hon'ble High Court of Delhi dated 04.07.2022 in W.P. (C) 4785/2008 & CM Application 9216/2008 titled "Samarpal & Ors. versus U01 & ors."
18. It is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate .1.1 dwellers of II Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for



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Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-537 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/18/43.1/771 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 47 of 2022 has been filed by the present Appellant/ Claimant.

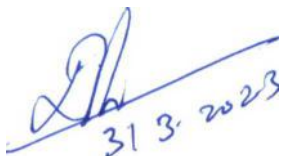
12. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

13. The statement of the Appellant/Claimant has been recorded before us on 28.02.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-P, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

14. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

15. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-537 was found to exist on the upper floor but he had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including


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claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/18/43.1/771 dated 07.11.2022.

19. We have no dispute with regard to the proposition of law laid down in the authorities relied upon by the Appellant/ Claimant. It is humbly pointed out that Poonam's case supra is still pending and no final order has been passed. Therefore, rival contentions made in the pleadings of that case cannot take place of the proof. However, there is no doubt that the Appellate Authority has to take a holistic view of the matter and is required to consider all the documents before arriving at a conclusion as to whether the Appellant/ Claimant is entitled to rehabilitation or not. The appeal filed by the Appellant/ Claimant cannot be rejected by taking a narrow and pedantic manner but all the documents which may establish residence at the Jhuggi on the relevant date of 01.01.2015 have to be considered holistically. On this aspect reliance can also be placed on the Authority of the Hon'ble High Court of Delhi dated 01.08.2017 in W.P. (C) 5378/2017, CM Application 22718/2017 titled "Udal & Ors versus Delhi Urban Shelter Improvement Board & Ors".

20. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and 11 Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.

5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the 11 dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The ii dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible 11 dwellers will be removed from the 11 cluster at the time of its rehabilitation /relocation/clearance of ii Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with otograph issued by


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the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

21. As per Part—B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

22. As already pointed out above, condition contained in Part—B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

23. Thus Part—B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

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czt. The bare perusal of the Policy shows that for claiming allotment for upper floor the II dwellers must be a citizen of India and not less than 18 years of age and further also that the name of II dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

25. In the light of our discussion above, we shall now appraise the material placed on file by taking holistic & realistic view to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.
26. The statement of the Appellant/ Claimant, Sunil Kumar, has been recorded before us on 28.02.2023, wherein he has stated that his parents, Bihari Lal & Beena Devi, are having two sons, namely, Anil & Sunil Kumar (Appellant/Claimant) and one daughter, namely, Rakhi. All the children except Anil are married. Rakhi is married with Vinay and she is living in her matrimonial home in Nazafgarh. Sunil Kumar (Appellant/Claimant) is married with Preeti and having one son, Yuva.
27. The Appellant/ Claimant has stated that his family is having a double storey Jhuggi No. C-537 and it comprises of one room on each floor. His parents, Bihari Lal & Beena Devi, are living on the ground floor of the said Jhuggi No. C-537 (shop cum Residence) where his father is running a shop for selling "Sandook" (storage boxes) on the platform just outside his Jhuggi and regarding that DDA has made allotment in favour of their "shop cum residence" to his mother Beena. These facts are not disputed by DE:9

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8. The Appellant/ Claimant has also stated that he along with his wife, Preeti & son Yuwan, is living on the first floor of the said Jhuggi No. C-537. The Appellant/ Claimant has sought allotment from DDA against the said Jhuggi. But his claim has been rejected by DDA and aggrieved by the same he has filed Appeal No. 47 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-P, and prayed that DDA be directed to make allotment in his favour.
29. DDA has furnished the survey records along with two video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 28.02.2023 wherein he has stated that in one video clip of ground floor his mother Beena is seen in her Jhuggi on the ground floor and is holding a slate in her hand on which "Beena Devi C-537, Shop Cum Residence" is written and in the second video he (Sunil-Appellant/Claimant) is seen with his wife Preeti on the first floor and his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey pucca Jhuggi No. C-537 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.
30. Accordingly, we have no hesitation in holding that the Jhuggi No. C-537 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant & his family has been using the first floor of the said Jhuggi for residential purposes.
31. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-P, in support of his claim and prayed that DDA be directed to make allotment in his favour.
32. The Appellant/Claimant has tendered his two Voter ID Cards bearing number ARE 1519361 (Annexure-A), and ARE 1519361 (Annexure-B), Aadhar Card (Annexure-C), Pan Card (Annexure-E), Voter List of the year 2013 (Annexure-J), Voter List of the year 2014 (Annexure-K), Voter List of the year 2015 (Annexure-L), Voter List of the year 2019

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(Annexure-M), the Voter List of the year 2020 (Annexure-N) and the Voter List of the year 2021 (Annexure-O).

33. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B) bearing same number, i.e., ARE 1519361. The first Voter ID Card bearing number ARE 1519361 (Annexure-A) is issued on 06.01.2012, much prior to the cutoff date of 01.01.2015. The second Voter ID Card bearing number ARE 1519361 (Annexure-B) is issued on 06.04.2017, much after the cutoff date of 01.01.2015. Both the Voter ID Cards, Annexure-A & Annexure-B, are bearing the same number ARE 1519361 and further in the Voter Lists, Annexure- J to Annexure-O, the number of the Voter ID Cards of the Appellant/Claimant is recorded to be ARE 1519361. It is pointed out that the name of the Appellant/Claimant appears at SI. No. 726 in the Voter List of the year 2013 (Annexure-J), at SI. No. 796 in the Voter List of the year 2014 (Annexure-K), at SI. No. 895 in the Voter List of the year 2015 (Annexure-L), at SI. No. 1307 in the Voter List of the year 2019 (Annexure-M), at SI. No. 1302 in the Voter List of the year 2020 (Annexure-N) and at SI. No. 1326 in the Voter List of the year 2021 (Annexure-O). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

34. The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of the first floor of the Jhuggi bearing No. C-537 regarding which he has claimed allotment from DDA. The Appellant/Claimant has specifically stated that he had made an application for the issuance of the Ration Card and the same has been approved by the Department of Food, Supplies and Consumer Affairs, Govt. of NCT of Delhi on 11.02.2023 (Annexure-P) but the final print out of Ration Card is yet to be obtained. Thus the approval for issuance of the Ration Card has been granted by the concerned authority on 11.02.2023, much after the cutoff date of 01.01.2015. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 on the address of his Jhuggi on the first floor bearing No. C-537 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility

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criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

35. The Appellant/ Claimant has also tendered his Driving License (Annexure-D), SC Certificate (Annexure-F), Pass Book of PNB (Annexure-G), Pass Book of Post Office (Annexure-H) and Aadhar Card (Annexure-I) of his wife Preeti. Here it is pointed out that the Driving License (Annexure-D) has been issued on 14.12.2011 and SC Certificate (Annexure-F) has been issued on 26.07.2010. The Pass Book Of PNB (Annexure-G) shows that the account was opened by the Appellant/ Claimant on 03.09.2005 whereas the Pass Book of Post Office (Annexure-H) shows that the account was opened on 19.03.2011. But it is pertinent to point out that the abovementioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above he was not having a separate Ration Card on the cut off date of 01.01.2015 in spite of the fact that he is claiming allotment against the upper floor.
36. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 in spite of the fact that he has claimed allotment against the first floor. The documents, Annexure-A to Annexure-P, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. C-537 regarding which he has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.
37. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No.

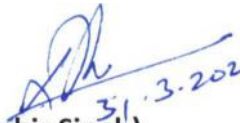
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385/18/43.1/771 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

38. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.


 (Ranbir Singh)

Jt. Secretary (Retd.) GOI

MEMBER


 (Sachin Ahlawat)

Addl. District & Sessions Judge (Retd.)

CHAIRMAN


 (Rachna Tiwary)

(Rachna Tiwary)

EXPERT MEMBER

**BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE
GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF .1.1
DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.**

Appeal No. 257 of 2023

Date of Institution: 24.11.2022

Date of Order: 31.03.2023

Present: Appellant/ Claimant Mohini W/o Mukesh Kumar

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. Before appraising the material placed on file on merit, we will discuss the facts leading to filing of W.P. (C) 398/2023 & CM APPL. 1592/2023 titled "Sunil Kumar & ORS. Versus Government of NCT of Delhi & ANR" before the Hon'ble High Court of Delhi.
3. DDA has placed on file the copy of order dated 13.01.2023 passed by the Hon'ble High Court of Delhi in W.P. (C) 398/2023 & CM APPL. 1592/2023 titled "Sunil Kumar & ORS. versus Government of NCT of Delhi & ANR".
4. The perusal of the order dated 13.01.2023 shows that eleven Petitioners being aggrieved by the list dated 07.11.2022, published by the Eligibility Determination Committee ('EDC') have approached the Hon'ble High Court by way of filing the above mentioned petition. The petitioners have also alleged that they have made representations before the Appellate Authority. Accordingly, the Hon'ble High Court was of the view that the Petitioners must first avail and exhaust the remedy of appeal provided under the Rehabilitation Policy especially since the Petitioners are assailing a fact finding by the EDC. The Hon'ble High Court has accordingly directed this Appellate Authority to take up the matter on the date already fixed i.e., 10.04.2023 and dispose off the same expeditiously. The Hon'ble High Court has also directed Delhi Development Authority (Respondent No. 2 before the Hon'ble High Court) to place a copy of the orders on Appellate Authority's record and facilitate a hearing on 10.04.2023.


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5. The details of the Appeals filed by the eleven Petitioners is given below:-

S. No.	Applicant Name	Jhuggi No.	Appeal No.	Appeal Date	Remarks
1.	Kashmir Lal Sbo Ram Singh	B-300	256/2023	24.11.2022	
2.	Mahender Kumar Sbo Chander Bhan	B-550	555/2023	06.12.2022	
3.	Satish Sbo Ganesh Prasad	B-87/2	570/2023	06.12.2022	
4.	Mohini W/o Mukesh Kumar	B-300	257/2022	24.11.2022	
5.	Mohit Kumar Sbo Sh. Raj Babu	C-374	308/2023	28.11.2022	Appeal No. 308 of 2023 has already been rejected by the Appellate Authority on 21.01.2023 before communication of Order Dated 13.01.2023.
6.	Sunil Kumar S/o Bihari Lal	C-537	47/2022	21.11.2022	
7.	Sanjeev Bhadra S/o Samiran Bhadra	C-248/B	558/2023	06.12.2022	
8.	Kundan Kumar Shah S/o Nand Kumar Shah	C-480	600/2023	08.12.2022	
9.	Neelam W/o Chandan Kumar Sah	C-751	574/2023	06.12.2022	
10.	Anil Kumar Sbo Bihari Lal	D-219			EDC has not rejected the claim. No Appeal has been filed before the Appellate Authority.
11.	Chandan Kumar Sah S/o Nand Kumar Sah	D-580			EDC has not rejected the claim. No Appeal has been filed before the Appellate Authority.

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6. It is pointed out that two of the Petitioners, Anil Kumar & Chandan Kumar Sah (shown at . No. 10 & 11 in table in Para No. 5 above) have not made representations/Appeals before the Appellate Authority. However, the remaining nine Petitioners (shown at SI. No. 1 to 9 in table in Para No. 5 above) have made representations/Appeal before the Appellate Authority. But the Appeal No. 308 of 2023 filed by Appellant/Claimant Mohit Kumar (Petitioner shown at SI. No. 05 in table in Para No. 5 above) has already been rejected on 21.01.2023 before communication of Order Dated 13.01.2023.
7. It is also pointed out that DDA has placed on file the copy of another order dated 06.03.2023 passed by the Hon'ble High Court of Delhi in W.P. (C) 2801/2023 titled "Sunil Kumar & ORS. versus Government of NCT of Delhi & ANR" whereby the name of Anil Kumar & Chandan Kumar Sah (shown at SI. No. 10 & 11 in table in Para No. 5 above) were deleted from the array of parties.
8. In the light of the directions passed by the Hon'ble High Court it was directed by us to prepone the eight appeals filed by the remaining eight Petitioners (shown at SI. No-1 to 04 and 06 to 09 in table in Para No. 5 above) for conducting further proceedings on top priority for disposal on their respective merits.
9. All the above-mentioned eight Appeals stand disposed off vide separate orders dated 31.03.2023 as mentioned below :-

S. No.	Appeal No	Name of the Appellant/Claimant	Jhuggi No.	Result	Remarks
1.	47/2022 Dt. 21.11.2022	Sunil Kumar Sio Bihari Lal	C-537	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/Claimant was found not having requisite mandatory documents.
2.	256/2023 Dt. 21.11.2022	Kashmir Lal S/o Ram Singh	B-300	Appeal stands rejected vide Order Dt. 31.03.2023	Jhuggi No. B-300 was found to be solely used for commercial purposes.
3.	257/2022 Dt. 24.11.2022	Mohini W/o Mukesh Kumar	B-300	Appeal stands rejected vide Order Dt. 31.03.2023	The Appellant/Claimant was found to be not living in Jhuggi No. B-300 but has filed wrong claim by concocting wrong & false story.

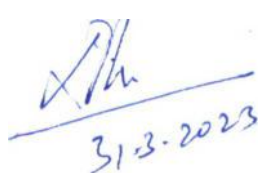
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4.	555/2023 Dt. 06.12.2022	Mahender Kumar Sbo Chander Bhan	B-550	Appeal stands allowed vide Order Dt. 31.03.2023. DDA has been directed to make allotment in favour of Appellant/ Claimant.	Jhuggi No. B-550 was found to be used for commercial & residential purposes and Appellant/Claimant was found to have all the requisite documents.
5.	558/2023 Dt. 06.12.2022	Sanjeev Bhadra Sbo Samiran Bhadra	C-248/B	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/Claimant was found not having requisite mandatory documents.
6.	570/2023 Dt. 06.12.2022	Satish S/o Ganesh Prasad	B-87/2	Appeal stands rejected vide Order Dt.	Appellant/Claimant has filed wrong claim to seek double allotment by concocting wrong & false story.
7.	574/2023 Dt. 06.12.2022	Neelam W/o Chandan Kumar Sah	C-751	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/Claimant has forged documents and filed wrong claim by concocting wrong & false story.
8.	600/2023 Dt. 08.12.2022	Kundan Kumar Shah Sio Nand Kumar Shah	C-480	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/Claimant was found not having requisite mandatory documents. The second floor is not covered under the definition of upper floor under the DDA Policy.

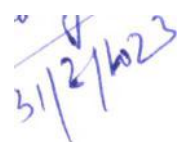
10. Now we shall deal the present Appeal on merit.

11. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. B-300, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of .1.1 Dwellers of Bhoomiheen Camp. The Appellant/ Claimant


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submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Jhuggi bearing No. B-300 was found to be used for commercial purposes accordingly the Appellant/ Claimant was not entitled for alternate allotment as per the policy guidelines. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/61/102.G-A/1317 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 257 of 2023 has been filed by the present Appellant/ Claimant.

12. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
13. The statement of the Appellant/Claimant has been recorded before us on 02.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
14. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
15. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-300 was found to be used for commercial purposes and accordingly she was not found entitled for alternate allotment as per the policy guidelines. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated

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07.11.2022 whereby the reasons for rejection is mentioned to be **"Commercial"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant's Jhuggi bearing No. B-300 was found to be exclusively used for commercial purposes and accordingly the present Appellant/Claimant is not entitled for alternate allotment as per the policy guidelines.

16. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-L, in support of her claim and prayed that DDA be directed to make allotment in her favour. It is argued on behalf of the Appellant/ Claimant that she fulfills the criteria and possesses all the requisite documents. The Jhuggi bearing No. B-300 has been wrongly found to have been used for commercial purposes because she along with her family was using it solely for residential purposes on the cutoff date of 01.01.2015 and she has furnished documents in proof of residence. The Appellant/ Claimant contends that fresh ration cards are not being issued by GNCTD and to support her contention she has placed reliance on the Authority of the Hon'ble High Court of Delhi dated 05.08.2022 in W.P. (C) 11633/2022, CM Application 34509/2022 titled "Poonam versus Union of India & Ors".
17. The Appellant/Claimant has further contended that the purpose of the policy formulated by DDA is to ensure rehabilitation and relocation to economically weaker sections and would have to be interpreted in a broader and beneficial manner rather than in a narrow and pedantic manner by placing reliance on the Authority of the Hon'ble High Court of Delhi dated 30.01.2023 in W.P. (C) 315/2020 & CM Application 929/2020 titled "Smt. Beni versus Government of NCT Delhi & Ors." and another Authority of the Hon'ble High Court of Delhi dated 11.02.2010 in W.P. (C) 8904/2009, 7735/2007, 7317/2009 and 9246/2009 titled "Sudanna Singh & Ors. versus Government of Delhi & Anr." and another Authority of the Hon'ble High Court of Delhi dated 04.07.2022 in W.P. (C) 4785/2008 & CM Application 923.6/2008 titled "Samarpal & Ors. versus U01 & ors."


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18. It is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that the Appellant/ Claimant must have all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and her name must also appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. But the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she had made wrong claim in collusion with her family members to claim alternate allotment from DDA in spite of the fact that she was not living in Jhuggi No. B-300 regarding which she has claimed allotment from DDA but instead her brother-in-law Kashmir was found to be solely using the said Jhuggi for commercial purposes by running a shop for selling spices from there and further she has come forward with a wrong & false story. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/61/102.G-A/1317 dated 07.11.2022.
19. We have no dispute with regard to the proposition of law laid down in the authorities relied upon by the Appellant/Claimant. It is humbly pointed out that Poonam's case supra is still pending and no final order has been passed. Therefore, rival contentions made in the pleadings of that case cannot take place of the proof. However, there is no doubt that the Appellate Authority has to take a holistic view of the matter and is required to consider all the documents before arriving at a conclusion as to whether the Appellant/ Claimant is entitled to rehabilitation or not. The appeal filed by the Appellant/ Claimant cannot be rejected by taking a narrow and pedantic manner but all the documents which may establish residence at the Jhuggi on the relevant date of 01.01.2015 have to be considered holistically. On this aspect reliance can also be placed on the Authority of the Hon'ble High Court of Delhi dated 01.08.2017 in W.P. (C) 5378/2017, CM Application 22718/2017 titled "Udal & Ors versus Delhi Urban Shelter Improvement Board & Ors".
20. Therefore, it has to be first seen as to what is the legal position with regard to running of shop under the policy guidelines issued by DDA. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:


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"Part-B**The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph. =



- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the ii dwellers was the student of the School."

21. The statement of the Appellant/ Claimant, Mohini, has been recorded before us on 02.03.2023, wherein she has stated that her in-laws, Ram Singh & Kamla, are having four sons, Bihari, Mahesh, Mukesh & Kashmir and two daughters, Manju & Laxmi. Manju & Laxmi are living in their respective matrimonial homes in Dwarka & Rohini. Bihari is married with Beena and having three children, Sunil, Anil & Rakhi. Mahesh is married with Geeta and having three children, Gautam, Priya & Sonal. Kashmir is married with Rekha and having two children, Tanuj & Yogya. Mukesh is married with Mohini (Appellant/ Claimant) and having two children, Chirag & Ankush.
22. The Appellant/ Claimant has stated that her family is having a Jhuggi No. B-300 in Bhoomiheen Camp. Her brother-in-law, Kashmir, had applied for alternate allotment against the said Jhuggi No. B-300 but his claim was rejected by DDA and aggrieved by the same he has filed Appeal No. 256 of 2023 before the Appellate Authority.
23. The admission of the Appellant/ Claimant is a clincher piece of evidence and it shows that her brother-in-law, Kashmir, had sought allotment from DDA against the entire Jhuggi No. B-300 but his claim was rejected by DDA and aggrieved by the same he has filed Appeal No. 256 of 2023 before the Appellate Authority. This negates the claim put forward by the present Appellant/ Claimant because her admission itself shows that Kashmir is claiming allotment from DDA against the entire Jhuggi No. B-300 and not part/portion of the same.

24. Here it is pointed out that the Appellant/ Claimant has taken a somersault and changed her statement altogether thereby stating that the said Jhuggi No. B-300 was a double storey structure. The said Jhuggi was constructed by her brother in-law, Kashmir, in the year 2007. But it was demolished in 2010 due to Commonwealth Games. Kashmir had reconstructed the same but the police did not allow him to raise construction on the first floor. Therefore, he had constructed a **"Night Shelter"** by making walls of the "Chatai" and covering the same with "Tin Sheets" because the police did not allow him to construct a pucca room on the first floor.
25. It is pertinent to point out that the statement of the present Appellant/ Claimant shows that the double storey structure bearing Jhuggi No. B-300 was exclusively constructed on the main road of Bhoomiheen Camp by her brother in-law, Kashmir, in the year 2007. Thereafter, the said structure was demolished in the year 2010 due to Commonwealth Games. Kashmir had reconstructed the same with no financial or other help of the present Appellant/ Claimant or her husband. But the police did not allow Kashmir to raise construction on the first floor. Therefore, Kashmir had constructed a **"Night Shelter"** on the first floor.
26. Thus the statement of the Appellant/ Claimant is of no help to her because as per her own admission it was Kashmir, who had constructed the double storey Jhuggi No. B-300 in the year 2007 and had reconstructed after it was demolished in the year 2010.
27. The Appellant/ Claimant has stated that the ground floor of Jhuggi No. B-300 was divided into two portions and one portion has been used by Kashmir for running a shop for selling spices whereas she along with her family is living in the second portion on the ground floor, which was also bearing Jhuggi No. B-300. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi No. B-300. But her claim has been rejected by DDA and aggrieved by the same she has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure L, and prayed that DDA be directed to make allotment in her favour. However, it is pertinent to point out that the Appellant/ Claimant has nowhere disclosed the date, month and year of carving out two portions on the ground floor of Jhuggi No. B-300 and it is not specifically stated as to

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from when the Appellant/ Claimant started living in the second portion of Jhuggi No. B-

300. Her statement is vague and evasive in nature.

28. It is pertinent to point out that in order to make out a case the Appellant/ Claimant has further changed her statement thereby alleging that the ground floor was divided into two portions. One portion was used by Kashmir for running a shop for selling spices and he has placed a bamboo ladder for going to the Night Shelter on the first floor but after some time Kashmir in order to provide better education to his children had shifted on rent to Jhuggi No. C-537 and there after again shifted to D-86, Bhoomiheen Camp. But the Appellant/ Claimant has nowhere disclosed the date, month and year of carving out two portions on the ground floor of Jhuggi No. B-300 and also when the second portion was allegedly allotted to her by Kashmir. It is quite unbelievable that Kashmir will carve out two portions on the ground floor of his Jhuggi No. B-300 simply to give one portion to the present Appellant/ Claimant especially when neither the Appellant/ Claimant nor her husband had contributed anything at the time of its construction or reconstruction. But it seems that there is some sort of collusion between the Appellant/ Claimant and Kashmir & other family members to defraud & cheat DDA to get maximum allotments and in execution of their conspiracy the Appellant/ Claimant has concocted a wrong & false story of carving out two portions on the ground floor of Jhuggi No. B-300 and keeping one portion by Kashmir for running his shop and allotting another portion to the present Appellant/ Claimant so that they can grab two allotments against one dwelling unit. This creates doubt & suspicion in the story put forward by the Appellant/Claimant.

29. Here it is also pointed out that the present Appellant/Claimant has specifically admitted that she has not got her portion on the ground floor of the said Jhuggi No. B-300 surveyed by the survey team of DDA. She has tried to explain in futility as to why the survey/videography was not conducted of her Jhuggi thereby stating that at the time of survey she had gone to her native village and further coincidentally her husband had also gone out for work and accordingly at the time of survey the said Jhuggi was locked.

30. It is pointed out that the Appellant/ Claimant has specifically stated that she had not made any complaint to DDA authority for her Jhuggi not surveyed/video graphed by the survey

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team but instead she had straight way filed the present appeal No. 257/2023 before the Appellate Authority. Here it is suffice to point out that had the Appellant/ Claimant been living on the ground floor of Jhuggi No. B-300 then she would have certainly got the survey / videography conducted by the survey team and in case her Jhuggi was genuinely left out from survey for any reasons whatsoever then she in that eventuality would have made an application to the concerned DDA authority for getting her Jhuggi surveyed.

31. Even if the statement of the Appellant/ Claimant is taken to be a gospel truth that her Jhuggi was locked at the time of survey then the survey team would have got the locked Jhuggi video graphed. It is also not out of context to point out that the survey was not confined to few days but the whole exercise had consumed months together. The survey team had been regularly going to the Bhoomiheen Camp for survey purposes by giving prior notices and other communications and accordingly finding the Jhuggi locked on one day is of no consequence, as the Jhuggi would have been surveyed on any day thereafter. Therefore, not getting the Jhuggi surveyed/video graphed is a serious lapse and it create dent in the story put forward by the Appellant/ Claimant and shows that the Appellant/ Claimant in fact was not having any Jhuggi but in collusion with other family members including Kashmir she has tried to grab allotment from DDA by hook or crook.
32. In order to purge the lacunae of having not got the Jhuggi surveyed/video graphed the Appellant/ Claimant has herself furnished a pen drive containing video and the same was played before the Appellant/ Claimant when her statement was recorded before us on 02.03.2023 wherein she has stated that one room & kitchen are seen but the front side of the Jhuggi is not seen in the said pen drive. Therefore, it shows that the front side of the Jhuggi is not seen in the video furnished by the Appellant/ Claimant to identify the number of the said Jhuggi and its location. Further, the spice shop of her brother-in-law, Kashmir, is also not seen in the video.
33. The Appellant/ Claimant has acted in a very clandestine manner so that only the video of inside of a Jhuggi is made and in that one room & kitchen are seen but neither the outer main gate nor the front portion of the Jhuggi is seen. Therefore, the identity of the Jhuggi seen in the pen drive furnished by the Appellant/ Claimant cannot,be established to be the


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Jhuggi No. B-300 regarding which she has claimed allotment from DDA. Hence the pen drive containing video is not material and it is of no help to the Appellant/ Claimant because the video is made cleverly of the inside of some Jhuggi so that the outer portion/gate could not be seen and the identity of the Jhuggi shown in the video is not established.

34. DDA has furnished the survey records along with four video clips in which Kashmir, who is the brother-in-law, of the present Appellant/Claimant is seen standing in his shop of spices and he is also heard of making a statement that he lives on rent but he runs a shop and further he is also seen holding a slate on which "Kashmir Lal- B-3000 G (Shop)" is written.
35. Had the ground floor of Jhuggi No. B-300 divided into two portions and one portion kept by Kashmir for running a shop for selling spices and the other portion given to the family of the present Appellant/Claimant for their residential purposes then in that eventuality the alleged second portion given to the present Appellant/Claimant would have been certainly visible in the video clips prepared by the survey team.
36. This shows that the ground floor of Jhuggi No. B-300 was having one portion and it was never divided into two portions. The ground floor of Jhuggi No. B-300 comprises of only a single portion and it has been used by Kashmir for running a shop for selling spices. Since the ground floor of Jhuggi No. B-300 was never divided into two portions and accordingly the question of it being used by the Appellant/Claimant for her residential purposes does not arise. Therefore, we have no hesitation in holding that the ground floor of Jhuggi No. B-300 was not used by the present Appellant/Claimant for residential purposes on the cutoff date of 01.01.2015.
37. The condition contained in Part—B Paras No. 8 & 9 of DDA policy detailed in Para no. 11 above runs as under:

"8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose."

"9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the

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jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person."

38. As per our discussion above, the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the ground floor of Jhuggi No. B-300 was used solely for commercial purposes by Kashmir for running a shop for selling spices and the present Appellant/Claimant was not using it for residential purposes on the cutoff date of 01.01.2015. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.
39. Now we shall first appraise the material placed on file on other parameters also to determine the eligibility of the present Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey.
40. The bare perusal of the Policy detailed in Para no. 11 above shows that for claiming allotment the .1.1 dwellers must be a citizen of India and not less than 18 years of age and further also that the name of ii dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
41. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-L, in support of her claim and prayed that DDA be directed to make allotment in her favour.

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42. The Appellant/Claimant has tendered her Voter ID Card bearing number ARE 1879244 (Annexure-A), Aadhar Card (Annexure-B), Voter List of the year 2015 (Annexure-K) and Voter List of the year 2019 (Annexure-L).
43. The Appellant/Claimant has tendered her Voter ID Card bearing number ARE 1879244 (Annexure-A), which has been issued on 25.03.2014, much prior to the cutoff date of 01.01.2015. The name of the Appellant/Claimant appears at SI. No. 1151 in the Voter List of the year 2015 (Annexure-K) and at SI. No. 870 in the Voter List of the year 2019 (Annexure-L). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
44. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1153170 (Annexure-C), Aadhar Card (Annexure-D), Pan Card (Annexure-E) & Caste Certificate (Annexure-G) of her husband Mukesh as well as her Pass Book of PNB (Annexure-F), the Aadhar Card (Annexure-H) of her son Ankush and Birth Certificate (Annexure-I) & Aadhar Card (Annexure-J) of her son Chirag. It is pointed out that the Voter ID Card No. ARE 1153170 (Annexure-C) has been issued on 27.10.2008 and the Caste Certificate (Annexure-G) has been issued on 18.02.2012. The Pass Book of PNB (Annexure-F) shows that account was opened by the Appellant/Claimant on 08.06.2012. But it is pointed out that the abovementioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the ground floor of Jhuggi No. B-300 was used exclusively for commercial purposes by Kashmir for running a shop for selling spices and the present Appellant/Claimant was not using it for residential purposes on the cutoff date of 01.01.2015. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.
45. The material placed on file as well as the statement of the Appellant/ Claimant shows that on the cutoff date of 01.01.2015 the ground floor of Jhuggi No. B-300, regarding which the Appellant/ Claimant has sought allotment from DDA, has been solely used as shop for

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commercial purposes for selling spices by her brother-in-law, Kashmir, and the present Appellant/Claimant did not use it for residential purposes. The documents, Annexure-A to Annexure-L, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. We have no hesitation in holding that the ground floor of Jhuggi No. B-300 was used exclusively for commercial purposes by Kashmir for running a shop for selling spices and the present Appellant/Claimant was not using it for residential purposes on the cutoff date of 01.01.2015. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria to seek alternate allotment as per the guidelines issued by DDA.

46. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/61/102.G-A/1317 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.
47. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ran Singh) ^{5/}
Jt. Secretary (Retd.) GOI
MEMBER

(Satish Ahlawat)
Addl. District & Sessions Judge (Retd.)
CHAIRMAN


(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF J.1 DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 555 of 2023

Date of Institution: 06.12.2022

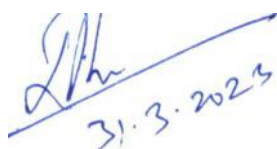
Date of Order: 31.03.2023

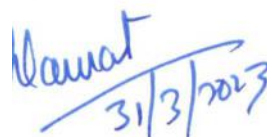
Present: Appellant/ Claimant Malender Kumar Sbo Chander Bhan

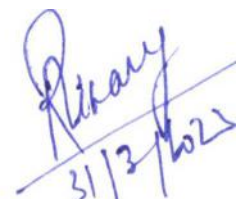
Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. Before appraising the material placed on file on merit, we will discuss the facts leading to filing of W.P. (C) 398/2023 & CM APPL. 1592/2023 titled "Sunil Kumar & ORS. Versus Government of NCT of Delhi & ANR" before the Hon'ble High Court of Delhi.
3. DDA has placed on file the copy of order dated 13.01.2023 passed by the Hon'ble High Court of Delhi in W.P. (C) 398/2023 & CM APPL. 1592/2023 titled "Sunil Kumar & ORS. versus Government of NCT of Delhi & ANR".
4. The perusal of the order dated 13.01.2023 shows that eleven Petitioners being aggrieved by the list dated 07.11.2022, published by the Eligibility Determination Committee ('EDC') have approached the Hon'ble High Court by way of filing the above mentioned petition. The petitioners have also alleged that they have made representations before the Appellate Authority. Accordingly, the Hon'ble High Court was of the view that the Petitioners must first avail and exhaust the remedy of appeal provided under the Rehabilitation Policy especially since the Petitioners are assailing a fact finding by the EDC. The Hon'ble High Court has accordingly directed this Appellate Authority to take up the matter on the date already fixed i.e., 10.04.2023 and dispose off the same expeditiously. The Hon'ble High Court has also directed Delhi Development Authority (Respondent No. 2 before the Hon'ble High Court) to place a copy of the orders on Appellate Authority's record and facilitate a hearing on 10.04.2023.


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6. The details of the Appeals filed by the eleven Petitioners is given below:-

S.No.	Applicant Name	Jhuggi No.	Appeal No.	Appeal Date	Remarks
1	Kashmir Lal Sbo Ram Singh	B-300	256/2023	24.11.2022	
2	Mahender Kumar Sbo Chander Bhan	B-550	555/2023	06.12.2022	
3	Satish Sbo Ganesh Prasad	B-87/2	570/2023	06.12.2022	
4	Mohini W/o Mukesh Kumar	B-300	257/2022	24.11.2022	
5	Mohit Kumar Sbo Sh. Raj Babu	C-374	308/2023	28.11.2022	Appeal No. 308 of 2023 has already been rejected by the Appellate Authority on 21.01.2023 before communication of Order Dated 13.01.2023.
6	Sunil Kumar Sbo Bihari Lal	C-537	47/2022	21.11.2022	
7	Sanjeev Bhadra Sbo Samiran Bhadra	C-248/B	558/2023	06.12.2022	
8	Kundan Kumar Shah S/o Nand Kumar Shah	C-480	600/2023	08.12.2022	
9	Neelam W/o Chandan Kumar Sah	C-751	574/2023	06.12.2022	
10	Anil Kumar S/o Bihari Lal	0-219			EDC has not rejected the claim. No Appeal has been filed before the Appellate Authority.
11	Chandan Kumar Sah Sbo Nand Kumar Sah	D-580			EDC has not rejected the claim. No Appeal has been filed before the Appellate Authority.

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6. It is pointed out that two of the Petitioners, Anil Kumar & Chandan Kumar Sah (shown at SI. No. 10 & 11 in table in Para No. 5 above) have not made representations/Appeals before the Appellate Authority. However, the remaining nine Petitioners (shown at SI. No. 1 to 9 in table in Para No. 5 above) have made representations/Appeal before the Appellate Authority. But the Appeal No. 308 of 2023 filed by Appellant/Claimant Mohit Kumar (Petitioner shown at SI. No. 05 in table in Para No. 5 above) has already been rejected on 21.01.2023 before communication of Order Dated 13.01.2023.
7. It is also pointed out that DDA has placed on file the copy of another order dated 06.03.2023 passed by the Hon'ble High Court of Delhi in W.P. (C) 2801/2023 titled "Sunil Kumar & ORS. versus Government of NCT of Delhi & ANR" whereby the name of Anil Kumar & Chandan Kumar Sah (shown at SI. No. 10 & 11 in table in Para No. 5 above) were deleted from the array of parties.
8. In the light of the directions passed by the Hon'ble High Court it was directed by us to prepone the eight appeals filed by the remaining eight Petitioners (shown at SI. No-1 to 04 and 06 to 09 in table in Para No. 5 above) for conducting further proceedings on top priority for disposal on their respective merits.
9. All the above-mentioned eight Appeals stand disposed of vide separate orders dated 31.03.2023 as mentioned below:-

S. No.	Appeal No	Name of the Appellant/Claimant	Jhuggi No.	Result	Remarks
1.	47/2022 Dt. 21.11.2022	Sunil Kumar Sbo Bihari Lal	C-537	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/Claimant was found not having requisite mandatory documents.
2.	256/2023 Dt. 21.11.2022	Kashmir Lal S/o Ram Singh	B-300	Appeal stands rejected vide Order Dt. 31.03.2023	Jhuggi No. B-300 was found to be solely used for commercial purposes.
3.	257/2022 Dt. 24.11.2022	Mohini W/o Mukesh Kumar	B-300	Appeal stands rejected vide Order Dt. 31.03.2023	The Appellant/Claimant was found to be not living in Jhuggi No. B-300 but has filed wrong claim by concocting wrong & false story.

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4.	555/2023 Dt. 06.12.2022	Mahender Kumar Sbo Chander Bhan	B-550	Appeal stands allowed vide Order Dt. 31.03.2023. DDA has been directed to make allotment in favour of Appellant/ Claimant.	Jhuggi No. B-550 was found to be used for commercial & residential purposes and Appellant/Claimant was found to have all the requisite documents.
5.	558/2023 Dt. 06.12.2022	Sanjeev Bhadra Sio Samiran Bhadra	C-248/B	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/Claimant was found not having requisite mandatory documents.
6.	570/2023 Dt. 06.12.2022	Satish SA) Ganesh Prasad	B-87/2	Appeal stands rejected vide Order Dt.	Appellant/Claimant has filed wrong claim to seek double allotment by concocting wrong & false story.
7.	574/2023 Dt. 06.12.2022	Neelam W/o Chandan Kumar Sah	C-751	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/Claimant has forged documents and filed wrong claim by concocting wrong & false story.
8.	600/2023 Dt. 08.12.2022	Kundan Kumar Shah S/o Nand Kumar Shah	C-480	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/Claimant was found not having requisite mandatory documents. The second floor is not covered under the definition of upper floor under the DDA Policy.

10. Now we shall deal the present Appeal on merit.

11. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-550, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of .1.1 Dwellers of Bhoomiheen Camp. T e Appellant/ Claimant

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submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Jhuggi bearing No. B-550 was found to be used solely for commercial purposes accordingly the Appellant/ Claimant was not entitled for alternate allotment as per the policy guidelines. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/18/76.G/791 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 555 of 2023 has been filed by the present Appellant/ Claimant.

12. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
13. The statement of the Appellant/Claimant has been recorded before us on 10.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
14. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
15. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-550 was found to be used solely for commercial purposes and accordingly he was not found entitled for alternate allotment as per the policy guidelines. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant,

which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be "**Commercial**" and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant's Jhuggi bearing No. B-550 was found to be exclusively used for commercial purposes and accordingly the present Appellant/Claimant is not entitled for alternate allotment as per the policy guidelines.

16. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make allotment in his favour. It is argued on behalf of the Appellant/ Claimant that he fulfills the criteria and possesses all the requisite documents. The Jhuggi bearing No. B-550 has been wrongly found to have been used solely for commercial purposes because its front portion was used for running a shop for selling coolers whereas he along with his family was using its back portion for residential purposes on the cutoff date of 01.01.2015 and he has furnished documents in proof of residence.
17. The Appellant/ Claimant has further contended that the purpose of the policy formulated by DDA is to ensure rehabilitation and relocation to economically weaker sections and would have to be interpreted in a broader and beneficial manner rather than in a narrow and pedantic manner by placing reliance on the Authority of the Hon'ble High Court of Delhi dated 30.01.2023 in W.P. (C) 315/2020 & CM Application 929/2020 titled "Smt. Beni versus Government of NCT Delhi & Ors." and another Authority of the Hon'ble High Court of Delhi dated 11.02.2010 in W.P. (C) 8904/2009, 7735/2007, 7317/2009 and 9246/2009 titled "Sudama Singh & Ors. versus Government of Delhi & Anr." and another Authority of the Hon'ble High Court of Delhi dated 04.07.2022 in W.P. (C) 4785/2008 & CM Application 9216/2008 titled "Samarpal & Ors. versus UOI & ors."
18. It is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate 11 dwellers of JJ Rehabilitation and Relocation Policy" provides that the Appellant/ Claimant must **have** all the requisite

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documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and her name must also appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. But the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he had made wrong claim in collusion with his family members to claim alternate allotment from DDA in spite of the fact that he was not living in Jhuggi No. B-550 regarding which he has claimed allotment from DDA but instead on the cutoff date of 01.01.2015 he was found to be solely using the said Jhuggi for commercial purposes by running a shop for selling coolers from there and further he has come forward with a wrong & false story. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/18/76.G/791 dated 07.11.2022.

19. We have no dispute with regard to the proposition of law laid down in the authorities relied upon by the Appellant/ Claimant. There is no doubt that the Appellate Authority has to take a holistic view of the matter and is required to consider all the documents before arriving at a conclusion as to whether the Appellant/ Claimant is entitled to rehabilitation or not. The appeal filed by the Appellant/ Claimant cannot be rejected by taking a narrow and pedantic manner but all the documents which may establish residence at the Jhuggi on the relevant date of 01.01.2015 have to be considered holistically. On this aspect reliance can also be placed on the Authority of the Hon'ble High Court of Delhi dated 01.08.2017 in W.P. (C) 5378/2017, CM Application 22718/2017 titled "Udal & Ors versus Delhi Urban Shelter Improvement Board & Ors".
20. Therefore, it has to be first seen as to what is the legal position with regard to running of shop under the policy guidelines issued by DDA. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

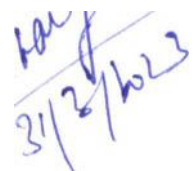
The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The ii dwellers must be a citizen of India and not less than 13 years of age.
2. The Jhuggi Jhoopri basti in which the 11 dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-201

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3. The name of .1.1 dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The 11 dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. ii dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the .1.1 dweller nor any of his/her family members should own any house/plot/flat in full or in part, in Delhi. The ii dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible ii dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of II Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.


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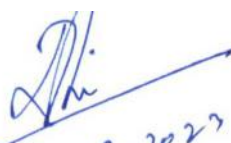
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- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

21. The statement of the Appellant/ Claimant, Mahender Kumar, has been recorded before us on 10.03.2023, wherein he has stated that his parents, Chander Bhan & Giano, are having two sons, Mahender (Appellant/ Claimant) & Mahabir and three daughters, Kiran, Krishna & Neelam. Giano had expired in the year 2015. All the children are married. All the three daughters, Kiran, Krishna & Neelam are living in their respective matrimonial homes in Ambedkar Nagar, Sangam Vihar & Nangloi. Mahabir is married with Sunita and having four children Varsha, Akash, Sagar & Puja and he is living in DDA flats. Mahender Kumar (Appellant/ Claimant) is married with Chunmun and having two children, Yash & Khushi.

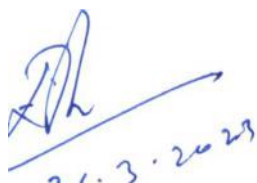
22. The Appellant/ Claimant has stated that his family is having two Jhuggis situated in two separate galis in Bhoomiheen Camp. One is bearing Jhuggi No. B-548 and another Jhuggi No. B-550. His parents, Chander Bhan & Giano (up till her death in 2015) are living in Jhuggi No. B-548 and regarding that DDA has made allotment in favour of his father, Chander Bhan. These facts are not disputed by DDA.

23. The Appellant/ Claimant has stated that the Jhuggi No. B-550 is situated on the main road in Bhoomiheen Camp. Jhuggi No. B-550 is having two portions (Front & Back Portions), which are having separate entries. It is a corner Jhuggi having two gates, i.e., Main Gate & Side Gate. The Main Gate is opening on the main road and the Side Gate is opening in the gali. The Appellant/ Claimant had opened a shop for selling "Coolers" in the Front Portion having an area of 10' X 8' and it is having entry from the main road. Whereas the Appellant/ Claimant along with his family is living on the Back Portion and it is having entry from the gali.


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14. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi No. B-550. But his claim has been rejected by DDA and aggrieved by the same he has filed the present Appeal No. 555 of 2023 for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure L, and prayed that DDA be directed to make allotment in his favour.
25. DDA has furnished the survey records along with six video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 10.03.2023 wherein he has stated that in the video clips he (Mahender Kumar-Appellant/Claimant) is seen along with his wife and child inside their Jhuggi. His shop on the main road is also clearly seen in the videos and a gali is seen going from the main road to the inside basti. Further the room of the Appellant/Claimant situated at the backside of his cooler's shop is also seen in these six video clips. There is a separate gate/entrance opening into the back portion of his Jhuggi, which is used for residential purposes.
26. The Appellant/Claimant has also submitted a pen drive (Annexure-L) which was also played before him when his statement was recorded before us on 10.03.2023. There are two videos in the pen drive which were played. A cooler's shop having an opening on the main road is clearly seen and further the back portion used as residential purposes by the Appellant/Claimant and having separate door/entrance from the side gali is also seen in these videos. Further, Mahender Kumar, his wife, Chunmun & child are also seen inside their room in the gali. A brick wall is also seen in between the shop and the room.
27. The survey records as well as the four video clips furnished by DDA and also the video contained in the pen-drive (Annexure-L) shows that the Jhuggi No. B-550 is used by the Appellant/Claimant for residential as well as commercial purposes. Therefore, the statement of the present Appellant/ Claimant has been duly corroborated by the video clips furnished by DDA and the pen drive placed on record by the Appellant/Claimant thereby showing that the Jhuggi No. B-550 is used by the Appellant/Claimant for residential-cum-commercial purposes. His shop is clearly seen on the main road. Being a corner shop there were two separate entrances. One on the main road used for the shop and another from the gali to the room used by Mahender Kumar for residential purposes.


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28. The condition contained in Part—B Paras No. 8 & 9 of DDA policy detailed in Para no. 11 runs as under:

"8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose."

"9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person."

29. As per our discussion above, the statement of the Appellant/Claimant as well as the survey records/video clips and also the video contained in the pen-drive (Annexure-L) has duly proved that the Jhuggi No. B-550 is used by the Appellant/Claimant for Residential-cum-commercial purposes and on the cutoff date of 01.01.2015 it was not solely used for commercial purposes but on the other hand it was put to mixed use as commercial & residential by the Appellant/Claimant, Mahender Kumar.
30. The bare perusal of the Policy detailed in Para no. 11 above shows that for claiming allotment the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
31. Now we shall first appraise the material placed on file to determine the eligibility of the present Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey.

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32. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make allotment in his favour.
33. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1159805 (Annexure-A), Aadhar Card (Annexure-B), Voter List of the year 2012 (Annexure-G), Voter List of the year 2013 (Annexure-H), Voter List of the year 2014 (Annexure-I), Voter List of the year 2015 (Annexure-J) and Voter List of the year 2019 (Annexure-K).
34. It is pointed out that the Voter ID Card bearing number ARE 1159805 (Annexure-A) has been issued on 27.10.2008, much prior to the cutoff date of 01.01.2015. Furthermore, the name of the Appellant/Claimant appears at SI. No. 751 in the Voter List of the year 2012 (Annexure-G), at SI. No. 751 in the Voter List of the year 2013 (Annexure-H), at SI. No. 823 in the Voter List of the year 2014 (Annexure-I), at SI. No. 854 in the Voter List of the year 2015 (Annexure-J) and at SI. No. 876 in the Voter List of the year 2019 (Annexure-K). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA.
35. The Appellant/Claimant has also tendered the Voter ID Card No. ARE 2556694 (Annexure-C) & Aadhar Card (Annexure-D) of his wife Chunmun as well as the Electricity Bill (Annexure-E) and Ration Card (Annexure-F). It is pointed out that the Voter ID Card No. ARE 2556694 (Annexure-C) has been issued on 22.10.2021. The Electricity Bill (Annexure-E) shows that the connection has been taken by the Appellant/Claimant on 16.07.2010, much prior to the cutoff date of 01.01.2015. The Ration Card (Annexure-F) shows that it has been issued in the name of his wife Chunmun and the name of the Appellant/Claimant & his son Yash are also mentioned. It is pointed out that the abovementioned documents are corroborating the claim of the present Appellant/Claimant to the effect that Jhuggi No. B-550 is not used solely for commercial purposes but it is put to mixed use as commercial & residential because the Appellant/Claimant is running a shop for selling "Cooler" in the

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front portion whereas the back portion is used for residential purposes by the Appellant/Claimant and his family.

- 36.** The material placed on file shows that the Jhuggi No. B-550 is situated on the main road in Bhoomiheen Camp and it is having two portions (Front & Back Portions), which are having separate entries. It being a corner Jhuggi is having two gates, i.e., Main Gate & Side Gate. The Main Gate is opening on the main road and the Side Gate is opening in the gali. The Appellant/ Claimant is running a shop for selling "Coolers" in the Front Portion having an area of 10' X 8' and it is having entry from the main road whereas the Appellant/Claimant along with his family is living on the Back Portion and it is having entry from the gali. The Jhuggi No. B-550 was not used solely for commercial purposes on the cutoff date of 01.01.2015 but it was put to mixed used for commercial & residential purposes and the same has been duly substantiated by the video clips prepared by the survey team & the pen-drive furnished by the Appellant/ Claimant and further the Appellant/ Claimant was having all the requisite documents, including Voter ID card & Ration Card, on the cutoff date of 01.01.2015 and his name also appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Hence, we have no hesitation in holding that the Jhuggi No. B-550 at the time of cutoff date of 01.01.2015 was & is still being used for both residential & commercial purposes and accordingly the claim put forward by the present Appellant/Claimant has been fully covered under the condition contained in Part—B Paras No. 8 & 9 of DDA policy and further the Appellant/ Claimant was having all the requisite documents, including Voter ID card & Ration Card, on the cutoff date of 01.01.2015 and his name also appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA.
- 37.** In view of our findings above, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/ Claimant fulfills the eligibility criteria as per the guidelines issued by DDA but the Eligibility Determination Committee has wrongly and illegally rejected his claim. Hence the present Appeal No. 555 of 2023 stands allowed, hereby, setting aside the impugned order bearing No. 385/18/76.G/791 dated 07.11.2022. DDA is hereby directed to make allotment in favour of Appellant/ Claimant, Mahender Kumar S/o Chander Bhan, in respect of the Jhuggi No. B-550, Bhoomiheen Camp.

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38. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.



(Raribir Singh)

it. Secretary (Retd.) GOI

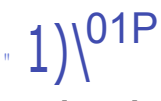
MEMBER



(Sati h Ahlawat)

Addl. District & Sessions Judge (Retd.)

CHAIRMAN



(Rachna Tiwary)

EXPERT MEMBER

**BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE
GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF .1.1
DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.**

Appeal No: 256 of 2023

Date of Institution: 24.11.2022

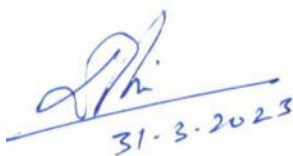
Date of Order: 31.03.2023

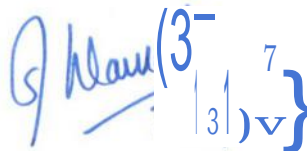
Present: Appellant/ Claimant Kashmir Lal S/o Ram Singh

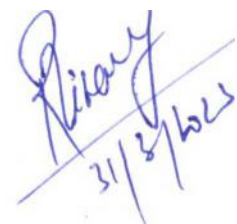
Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.
2. Before appraising the material placed on file on merit, we will discuss the facts leading to filing of W.P. (C) 398/2023 & CM APPL. 1592/2023 titled "Sunil Kumar & ORS. Versus Government of NCT of Delhi & ANR" before the Hon'ble High Court of Delhi.
3. DDA has placed on file the copy of order dated 13.01.2023 passed by the Hon'ble High Court of Delhi in W.P. (C) 398/2023 & CM APPL. 1592/2023 titled "Sunil Kumar & ORS. versus Government of NCT of Delhi & ANR".
4. The perusal of the order dated 13.01.2023 shows that eleven Petitioners being aggrieved by the list dated 07.11.2022, published by the Eligibility Determination Committee ('EDC') have approached the Hon'ble High Court by way of filing the above mentioned petition. The petitioners have also alleged that they have made representations before the Appellate Authority. Accordingly, the Hon'ble High Court was of the view that the Petitioners must first avail and exhaust the remedy of appeal provided under the Rehabilitation Policy especially since the Petitioners are assailing a fact finding by the EDC. The Hon'ble High Court has accordingly directed this Appellate Authority to take up the matter on the date already fixed i.e., 10.04.2023 and dispose off the same expeditiously. The Hon'ble High Court has also directed Delhi Development Authority (Respondent No. 2


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before the Hon'ble High Court) to place a copy of the orders on Appellate Authority's record and facilitate a hearing on 10.04.2023.

5. The details of the Appeals filed by the eleven Petitioners is given below:-

S.No.	Applicant Name	Jhuggi No.	Appeal No.	Appeal Date	Remarks
1	Kashmir Lal S/o Ram Singh	B-300	256/2023	24.11.2022	
2	Mahender Kumar S/o Chander Bhan	B-550	555/2023	06.12.2022	
3	Satish S/o Ganesh Prasad	B-87/2	570/2023	06.12.2022	
4	Mohini W/o Mukesh Kumar	B-300	257/2022	24.11.2022	
5	Mohit Kumar S/o Sh. Raj Babu	C-374	308/2023	28.11.2022	Appeal No. 308 of 2023 has already been rejected by the Appellate Authority on 21.01.2023 before communication of Order Dated 13.01.2023.
6	Sunil Kumar S/o Bihari Lal	C-537	47/2022	21.11.2022	
7	Sanjeev Bhadra S/o Samiran Bhadra	C-248/B	558/2023	06.12.2022	
8	Kundan Kumar Shah S/o Nand Kumar Shah	C-480	600/2023	08.12.2022	
9	Neelam W/o Chandan Kumar Sah	C-751	574/2023	06.12.2022	
10	Anil Kumar S/o Bihari Lal	D-219			EDC has not rejected the claim. No Appeal has been filed before the Appellate Authority.
11	Chandan Kumar Sah S/o Nand Kumar Sah	D-580			EDC has not rejected the claim. No Appeal has been filed before the Appellate Authority.

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6. It is pointed out that two of the Petitioners, Anil Kumar & Chandan Kumar Sah (shown at SI. No. 10 & 11 in table in Para No. 5 above) have not made representations/Appeals before the Appellate Authority. However, the remaining nine Petitioners (shown at SI. No. 1 to 9 in table in Para No. 5 above) have made representations/Appeal before the Appellate Authority. But the Appeal No. 308 of 2023 filed by Appellant/Claimant Mohit Kumar (Petitioner shown at SI. No. 05 in table in Para No. 5 above) has already been rejected on 21.01.2023 before communication of Order Dated 13.01.2023.
7. It is also pointed out that DDA has placed on file the copy of another order dated 06.03.2023 passed by the Hon'ble High Court of Delhi in W.P. (C) 2801/2023 titled "Sunil Kumar & ORS. versus Government of NCT of Delhi & ANR" whereby the name of Anil Kumar & Chandan Kumar Sah (shown at SI. No. 10 & 11 in table in Para No. 5 above) were deleted from the array of parties.
8. In the light of the directions passed by the Hon'ble High Court it was directed by us to prepone the eight appeals filed by the remaining eight Petitioners (shown at SI. No-1 to 04 and 06 to 09 in table in Para No. 5 above) for conducting further proceedings on top priority for disposal on their respective merits.
9. All the above-mentioned eight Appeals stand disposed of vide separate orders dated 31.03.2023 as mentioned below:-

S. No.	Appeal No	Name of the Appellant/Claimant	Jhuggi No.	Result	Remarks
1.	47/2022 Dt. 21.11.2022	Sunil Kumar Sio Bihari Lal	C-537	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/Claimant was found not having requisite mandatory documents.
2.	256/2023 Dt. 21.11.2022	Kashmir Lal S/o Ram Singh	B-300	Appeal stands rejected vide Order Dt. 31.03.2023	Jhuggi No. B-300 was found to be solely used for commercial purposes.
3.	257/2022 Dt. 24.11.2022	Mohini W/o Mukesh Kumar	B-300	Appeal stands rejected vide Order Dt. 31.03.2023	The Appellant/Claimant was found to be not living in Jhuggi No. B-300 but has filed wrong claim by concocting wrong & false story.

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4.	555/2023 Dt. 06.12.2022	Mahender Kumar Sbo Chander Bhan	B-550	Appeal stands allowed vide Order Dt. 31.03.2023. DDA has been directed to make allotment in favour of Appellant/ Claimant.	Jhuggi No. B-550 was found to be used for commercial & residential purposes and Appellant/Claimant was found to have all the requisite documents.
5.	558/2023 Dt. 06.12.2022	Sanjeev Bhadra S/o Samiran Bhadra	C-248/B	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/Claimant was found not having requisite mandatory documents.
6.	570/2023 Dt. 06.12.2022	Satish Sbo Ganesh Prasad	B-87/2	Appeal stands rejected vide Order Dt.	Appellant/Claimant has filed wrong claim to seek double allotment by concocting wrong & false story.
7.	574/2023 Dt. 06.12.2022	Neelam W/o Chandan Kumar Sah	C-751	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/Claimant has forged documents and filed wrong claim by concocting wrong & false story.
8.	600/2023 Dt. 08.12.2022	Kundan Kumar Shah Sbo Nand Kumar Shah	C-480	Appeal stands rejected vide Order Dt. 31.03.2023	Appellant/Claimant was found not having requisite mandatory documents. The second floor is not covered under the definition of upper floor under the DDA Policy.

10. Now we shall deal the present Appeal on merit.

11. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-300, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of ii Dwellers of Bhoomiheen Camp. The Appellant/ Claimant

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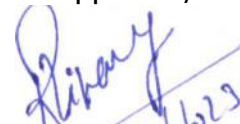
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submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Jhuggi bearing No. B-300 was found to be used for commercial purposes accordingly the Appellant/ Claimant was not entitled for alternate allotment as per the policy guidelines. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/61/102.G/1316 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 256 of 2023 has been filed by the present Appellant/ Claimant.

12. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.
13. The statement of the Appellant/Claimant has been recorded before us on 01.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-Q, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
14. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.
15. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-300 was found to be used for commercial purposes and accordingly he was not found entitled for alternate allotment as per the policy guidelines. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant,


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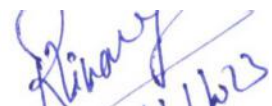
which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Commercial"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant's Jhuggi bearing No. B-300 was found to be exclusively used for commercial purposes and accordingly the present Appellant/Claimant is not entitled for alternate allotment as per the policy guidelines.

16. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-Q, in support of his claim and prayed that DDA be directed to make allotment in his favour. It is argued on behalf of the Appellant/ Claimant that he fulfills the criteria and possesses all the requisite documents. The Jhuggi bearing No. B-300 has been wrongly found to have been used solely for commercial purposes because he along with his family was using its first floor for residential purposes on the cutoff date of 01.01.2015 and he has furnished documents in proof of residence.
17. The Appellant/ Claimant has further contended that the purpose of the policy formulated by DDA is to ensure rehabilitation and relocation to economically weaker sections and would have to be interpreted in a broader and beneficial manner rather than in a narrow and pedantic manner by placing reliance on the Authority of the Hon'ble High Court of Delhi dated 30.01.2023 in W.P. (C) 315/2020 & CM Application 929/2020 titled "Smt. Beni versus Government of NCT Delhi & Ors." and another Authority of the Hon'ble High Court of Delhi dated 11.02.2010 in W.P. (C) 8904/2009, 7735/2007, 7317/2009 and 9246/2009 titled "Sudama Singh & Ors. versus Government of Delhi & Anr." and another Authority of the Hon'ble High Court of Delhi dated 04.07.2022 in W.P. (C) 4785/2008 & CM Application 9216/2008 titled "Samarpal & Ors. versus U01 & ors."
18. It is argued on behalf of DDA that Part—B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of 1.1 Rehabilitation and


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Relocation Policy" provides that the Appellant/ Claimant must have all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and her name must also appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. But the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he had made wrong claim in collusion with his family members to claim alternate allotment from DDA in spite of the fact that he was not living in Jhuggi No. B-300 regarding which he has claimed allotment from DDA but instead on the cutoff date of 01.01.2015 he was found to be solely using the said Jhuggi for commercial purposes by running a shop for selling spices from there and further he has come forward with a wrong & false story. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/61/102.G/1316 dated 07.11.2022.

19. We have no dispute with regard to the proposition of law laid down in the authorities relied upon by the Appellant/Claimant. There is no doubt that the Appellate Authority has to take a holistic view of the matter and is required to consider all the documents before arriving at a conclusion as to whether the Appellant/ Claimant is entitled to rehabilitation or not. The appeal filed by the Appellant/Claimant cannot be rejected by taking a narrow and pedantic manner but all the documents which may establish residence at the Jhuggi on the relevant date of 01.01.2015 have to be considered holistically. On this aspect reliance can also be placed on the Authority of the Hon'ble High Court of Delhi dated 01.08.2017 in W.P. (C) 5378/2017, CM Application 22718/2017 titled "Udal & Ors versus Delhi Urban Shelter Improvement Board & Ors".
20. Therefore, it has to be first seen as to what is the legal position with regard to running of shop under the policy guidelines issued by DDA. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The .11 dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.


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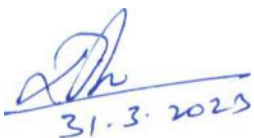

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3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the II dwellers must appear in the survey conducted by LM Department.
5. The 1.1 dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. .1.1 dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the 1.1 dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of .1.1 Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.

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- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/J dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the ii dwellers was the student of the School."

21. The statement of the Appellant/ Claimant, Kashmir Lal, has been recorded before us on 01.03.2023, wherein he has stated that he was married with Rekha in the year 2003 and having one son, Tanuj and one daughter, Yogya. Tanuj is studying in 12th standard and Yogya is studying in 3rd standard. Kashmir Lal was having a double storey Jhuggi No. B-300 on the main road in Bhoomiheen Camp. The said Jhuggi was constructed by him in the year 2007 but it was demolished in 2010 due to Commonwealth Games. Kashmir had reconstructed the same but the police did not allow him to raise construction on the first floor. Therefore, he had constructed a kuchcha **"Night Shelter"** in the year 2010 by making walls of the "Chatai" and covering the same with "Tin sheets" because the police did not allow him to construct a pucca room on the first floor. He had placed a bamboo ladder outside in the gali for going to the first floor. The Appellant/Claimant has stated that he is running a shop on the ground floor for selling spices. The Appellant/Claimant has stated that in order to give better education to his children, he along with his family in the year 2011-12 had shifted on rent to the Jhuggi No. C-537 of Bihari Lal and later on in the year 2019 they have shifted on rent to the Jhuggi No. D-86 of his brother Mahesh.

22. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi No. B-300. But his claim has been rejected by DDA and aggrieved by the same he has filed the present Appeal No. 256 of 2023 for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure Q, and prayed that DDA be directed to make allotment in his favour.

23. It is pertinent to point out that the present Appellant/ Claimant has specifically stated that he had constructed the double storey Jhuggi No. B-300 on the main road in Bhoomiheen Camp but it was demolished in 2010 due to Commonwealth Games. The Appellant/


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Claimant Kashmir had reconstructed the same but the police did not allow him to raise construction on the first floor. Therefore, he had constructed a kuchcha **"Night Shelter"** in the year 2010 by making walls of the "Chatai" and covering the same with "Tin sheets" because the police did not allow him to construct a pucca room on the first floor. The said kuchcha **"Night Shelter"** having walls of the "Chatai" and covered with the "Tin sheets" does not come within the definition of dwelling unit.

24. Furthermore, the Appellant/ Claimant has specifically admitted that for providing better education to his children he along with his family had shifted on rent to the Jhuggi No. C-537 of Bihari Lal in the year 2011-12 and again shifted on rent to the Jhuggi No. D-86 of his brother Mahesh in the year 2019. Thus the Appellant/ Claimant is not living in Jhuggi No. B-300 since 2010-11 regarding which he has claimed allotment from DDA but he is running a shop for selling spices from there. Merely constructing a kuchcha **"Night Shelter"** having walls of the "Chatai" and covering it with "Tin sheets" does not make the Jhuggi No. B-300 to have been put to mixed used for commercial as well as residential especially when the admission of the Appellant/ Claimant shows that since 2010-11 he is not living in Jhuggi No. B-300 but admittedly he along with his family is living on rent since 2010-11 and more specifically on the cutoff date of 01.01.2015 he was not living on the first floor of the Jhuggi No. B-300 regarding which he has claimed allotment from DDA.
25. DDA has furnished the survey records along with four video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 01.03.2023 wherein he has stated that in the video clips he (Kashmir Lal-Appellant/Claimant) is seen standing in his shop of spices and he is also heard of making a statement that he lives on rent but he runs a shop from there and further he is also seen holding a slate on which "Kashmir Lal- B-300 G (Shop)" is written.
26. The admission of the Appellant/Claimant is a clincher piece of evidence. The survey records as well as the four video clips furnished by DDA shows that the Jhuggi No. B-300 is exclusively used by the Appellant/Claimant for commercial purposes for running a shop for selling spices. Further, in the video he is clearly seen to be standing in his **shop** and holding a slate on which "Kashmir Lal- B-300 G (Shop)" is written.

27. Further, the Appellant/Claimant has specifically admitted that he is running a shop from Jhuggi No. B-300 and has been living on rent somewhere else. It is already pointed out that the Appellant/ Claimant has specifically stated that since 2010-11 he is not living in Jhuggi No. B-300 but living on rent. Therefore, the statement of the present Appellant/ Claimant has been duly corroborated by the survey records as well as the four video clips furnished by DDA thereby showing that the Jhuggi No. B-300 is solely used by the Appellant/Claimant for commercial purposes for running a shop for selling spices.

28. It is pointed out that the Appellant/ Claimant has furnished a pen drive containing video and the same was played before the Appellant/ Claimant when his statement was recorded before us on 01.03.2023 wherein he has stated that in the video clip he is seen climbing to the **"Night Shelter"** on the first floor by using a bamboo ladder and the **"Night Shelter"** having walls made with "Chatai" and covered with "Tin sheets" is seen.

29. The Appellant/ Claimant has admitted that he had not got the said **"Night Shelter"** surveyed when the survey team of DDA had come to survey his Jhuggi. Furthermore, the existence of a Kuccha **"Night Shelter"** on the first floor of Jhuggi No. B-300 is of no help to the Appellant/ Claimant because he has specifically admitted that since 2010-11 he along with his family is not living in Jhuggi no. B-300 regarding which he has claimed allotment from DDA but he has been living on rent somewhere else. Thus Jhuggi No. B-300 is not used for both residential and commercial purposes but it is solely used for commercial purposes.

30. The condition contained in Part—B Paras No. 8 & 9 of DDA policy detailed in Para no. 11 above runs as under:

"8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose."

"9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential

purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person."

31. It is also pointed out that the admission of the Appellant/ Claimant is a clincher piece of evidence and it shows that the Appellant/ Claimant, Kashmir Lal, along with his wife Rekha and two children, namely, Tanuj & Yogya, was not living in Jhuggi No. B-300, Bhoomiheen Camp on the cutoff date of 01.01.2015 but since 2010-11 they have been living on rent as they have initially lived in Jhuggi No. C-537, Bhoomiheen Camp from 2010-11 till they have shifted to Jhuggi No. D-86, Bhoomiheen Camp in the year 2019. The present Appellant/ Claimant, is running a "Spice Shop" from the said shop bearing Jhuggi No. B-300. The Appellant/ Claimant has been using the Jhuggi No. B-300 exclusively for commercial purposes as shop for running a "Spice Shop" and since 2010-11 it has never been used for residential purposes.
32. As per our discussion above, the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the Jhuggi No. B-300 has been used by Kashmir for running a shop for selling spices and on the cutoff date of 01.01.2015 it was not put to mixed use as commercial/residential or exclusively for residential purposes. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.
33. The bare perusal of the Policy detailed in Para no. 11 above shows that for claiming allotment the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of ii dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
34. Now we shall first appraise the material placed on file to determine the eligibility of the present Appellant/ Claimant on other parameters as to whether _{the} Appellant/ Claimant

was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey.

35. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-Q in support of his claim and prayed that DDA be directed to make allotment in his favour.
36. The Appellant/Claimant has tendered her Voter ID Card bearing number CXY 1076629 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2014 (Annexure-P) and Voter List of the year 2019 (Annexure-Q).
37. The Appellant/Claimant has tendered her Voter ID Card bearing number CXY 1076629 (Annexure-A), which has been issued on 07.03.2002, much prior to the cutoff date of 01.01.2015. The name of the Appellant/Claimant appears at SI. No. 717 in the Voter List of the year 2014 (Annexure-P) and at SI. No. 739 in the Voter List of the year 2019 (Annexure-Q). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.
38. The Appellant/Claimant has tendered two Voter ID Cards No. ARE 1560572 (Annexure-E) and ARE 1153162 (Annexure-F) & Aadhar Card (Annexure-G) of his wife Rekha as well as the Aadhar Cards (Annexure-H & Annexure-I) of his children, Tanuj & Yogya, Electricity Bill (Annexure-J), Ration Card (Annexure-K), Birth Certificate (Annexure-L & Annexure-M) of his children, Tanuj & Yogya, the Pass Book of PNB (Annexure-N) and his Caste Certificate (Annexure-O). It is pointed out that the Voter ID Card No. ARE 1560572 (Annexure-E) has been issued on 22.08.2012 and ARE 1153162 (Annexure-F) has been issued on 01.12.2022. But Rekha having two Voter ID Cards No. ARE 1560572 (Annexure-E) and ARE 1153162 (Annexure-F) creates doubt & suspicion. The Electricity Bill (Annexure-J) shows that the connection has been taken by Kashmir on 11.11.2008. The Ration Card (Annexure-K) shows that it has been issued on 19.11.2014 in the name of Rekha and the name of the

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Appellant/Claimant is also mentioned. The Caste Certificate (Annexure-O) has been issued on 08.02.2012. But it is pointed out that the abovementioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Jhuggi No. B-300 was used by Kashmir for running a shop for selling spices and the present Appellant/Claimant did not use it for residential purposes since 2010-11. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

39. The material placed on file as well as the statement of the Appellant/ Claimant shows that on the cutoff date of 01.01.2015 the Jhuggi No. B-300, regarding which the Appellant/ Claimant has sought allotment from DDA, has been solely used as shop for commercial purposes for selling spices. Thus, on the cutoff date of 01.01.2015 it was not put to mixed use as commercial/residential or exclusively for residential purposes as the Appellant/ Claimant admittedly had not used it for residential purposes since 2010-11. The documents, Annexure-A to Annexure-Q, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, as per our discussion above we have no hesitation in holding that the Jhuggi No. B-300 has been solely used for commercial purposes as shop for running a "Spice Shop" by the Appellant/ Claimant, Kashmir, and on the cutoff date of 01.01.2015 it was not put to mixed use as commercial/residential or exclusively for residential purposes but on the relevant date (01.01.2015) it was solely used for commercial purposes. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly he is not entitled for alternate allotment.

40. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/61/102.G/1316 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

41. Copy of this order be supplied to both the parties as per rules within three days from the

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date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.


 (Ranbir Singh) 3/3/22

Jt. Secretary (Retd.) GOI
MEMBER

(Sat h Ahlawat)

Addl. District & Sessions Judge (Retd.)
CHAIRMAN


 3/3/22

(Rachna Tiary)

EXPERT MEMBER