

KATHPUTLI COLONY, ALLOWED/REJECTED CASE LIST OF 01.05.2024 TO 31.05.2024
MAY 2024

S.No	Appl. No.	Date of Appl	Applicant Name	Father's Name	Jhuggi No	Decision	Order Date	
✓ 1.	47	2023	24-11-2021	Laxman Choudhary ✓	Gopal Choudhary	B402	Allowed	02-05-2024
✓ 2.	171	2023	27.10.2023	Irfan ✓	Chander	C-215/H-266	Allowed	07-05-2024
✓ 3.	236	2023	26.04.2022	Sanju	Deepak	C-22B/335	Rejected	10-05-2024
✓ 4.	237	2023	04.02.2021	Deepali ✓	Billu	B-10/12	Allowed	13-05-2024
✓ 5.	19	2023	07-02-2022	Jaggu Bhatt ✓	Hazari Lal	368(W07/B/177)	Allowed	21-05-2024
✓ 6.	229	2023	27-10-2023	Manisha ✓	Asgar Khan	B-632/435	Allowed	22-05-2024
✓ 7.	164	2023	01.12.2021	Sanjay ✓	Bhav Shah Gayakwad	A373	Allowed	24-05-2024
✓ 8.	265	2023	27.10.2023	Arun	Ram Prasad	A-560/H-247	Rejected	31-05-2024

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BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF KATHPUTLI COLONY

Appeal No: 47 of 2023

Date of Institution: 24.11.2021

Date of Order: 02.05.2024

Present: Appellant/ Claimant Laxman Choudhary S/o Gopal Choudhary

Sh. Radhey Shyam Meena, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 10.11.2021 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant has made a Representation to the Competent Authority, thereby, alleging that he is living in Jhuggi bearing No. B-402 in Kathputli Colony. A Notice by DDA was pasted in the Kathputli Colony to inform the Jhuggi dwellers about the survey to be conducted in the said basti. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. He was found provisionally eligible and accordingly DDA had provisionally allotted Flat No. 4, Block-A-15, Ground Floor, Pocket-04, Sector-7G, Narela vide Allotment Letter dated 25.10.2017 and issued Possession Slip No. 266 dated 03.11.2017 along with Inventory in his favour subject to final approval by Eligibility Determination Committee (hereinafter called EDC) on merits after scrutiny of the required documents and her fulfilling the requisite conditions as per the policy guidelines issued by DDA. The Appellant/Claimant had also tendered an Affidavit dated 03.11.2017 thereby giving an undertaking that if any fact/document is/are found to be false/forged, then his provisional allotment shall be liable to be cancelled. Further, the Appellant/ Claimant has shifted to Narela after DDA has made provisional allotment in his favour. Subsequently, the Eligibility Determination Committee has considered the claim of the Appellant/ Claimant on merits and on verifications of documents submitted by the Appellant/ Claimant the Eligibility Determination Committee has come to the conclusion that the present Appellant/ Claimant does not fulfill the eligibility criteria as per the


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policy guidelines issued by DDA and accordingly rejected his claim and the Nodal Officer, Kathputli Colony, duly communicated its order bearing No. F/KPC (710)13/Survey/LM/WZ/3572 dated 10.11.2021 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 47 of 2023 has been filed by the present Appellant/Claimant.

3. It is pointed out that in the month of October 2023 a bunch of about 250 appeals pertaining to Kathputli Colony has been sent to the Appellate Authority for disposal. After receiving of appeals files the same were ordered to be checked & registered and this Appellate Authority has directed to issue notice to procure the presence of the present Appellant/Claimant with the direction that it be got served by deputing official/special messenger and the copy of the same be also pasted on the Notice Board in the Transit Camp, Anand Parbat/Narela as well as on the main gate of the accommodation/flat situated in Transit Camp/Narela in which the Appellant/Claimant is at present living temporarily and in addition to that an attempt be also made by the Call Centre of DDA to intimate the Appellant/Claimant by calling him on his mobile number. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam, Dy. Director.
4. The statement of the Appellant/Claimant has been recorded before us on 22.03.2024. 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. Radhey Shyam, Dy. 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-402, Kathputli Colony 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 alternative 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 10.11.2021 whereby the reasons for rejection is mentioned to be "UPPER FLOOR JHUGGI as per policy guidelines separate Ration card is required" and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.


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7. 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 by taking holistic & realistic view to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a Separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name 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 and whether he is entitled to claim allotment against the first floor of Jhuggi bearing No. B-402 as per the policy guidelines issued by DDA.
8. The statement of the Appellant/Claimant Laxman Choudhary has been recorded before us on 22.03.2024 wherein he has stated that his parents, Gopal Choudhary & Nirmala, are having two sons, Laxman & Sunil. Sunil is unmarried. Laxman (Appellant/Claimant) is married with Karishma and having two children, Arwash & Aliya.
9. The Appellant/Claimant has stated that his family was having a double storey Jhuggi No. B-402 and it comprised of one room on each floor and an iron ladder was placed outside in the gali and it was used for going to the upper floor.
10. The Appellant/Claimant has stated that his parents, Gopal Choudhary & Nirmala, along with their unmarried son, Sunil, were living on the ground floor of the Jhuggi No. B-402 and regarding that DDA has made allotment in favour of his mother Nirmala and they have shifted to Transit Camp, Anand Parbat. These facts are not disputed by DDA.
11. The Appellant/Claimant has stated that he along with his wife Karishma and children, Arwash & Aliya were living on the first floor of the Jhuggi No. B-402 and regarding that DDA has made provisional allotment in his favour subject to approval by the Eligibility Determination Committee on merit and allotted Flat No. 4, Block-A-15, Ground Floor, Pocket-04, Sector-7G, Narela vide Allotment Letter dated 25.10.2017 (Annexure-A) and issued Possession Slip No. 266 dated 03.11.2017 (Annexure-B) along with Inventory in his favour and the Appellant/Claimant has also submitted an Affidavit dated 03.11.2017 (Annexure-C) wherein he has given an undertaking that if any fact/document is/are found to be fake/false, then his provisional allotment would be cancelled. The Appellant/Claimant had accordingly shifted to Narela after DDA has made provisional allotment in his favour.
12. The Appellant/Claimant has stated that subsequently his claim was placed before the Eligibility Determination Committee but his claim was rejected by the Eligibility Determination


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Committee on the ground that he was not having a separate Ration Card, which was a mandatory document for the dwellers claiming allotment from DDA against the upper floor in spite of the fact that DDA has already made provisional allotment in his favour by issuing Allotment Letter dated 25.10.2017 (Annexure-A) thereby allotting Flat No. 04, Block-A-15, Ground Floor, Pocket-04, Sector-7G, Narela and had also issued Possession Slip No. 266 dated 03.11.2017 along with Inventory (Annexure-B) in his favour and also it is pointed out that the Appellant/Claimant was having all the required documents and accordingly aggrieved by the same he has filed the present Appeal No. 47 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-Q, in support of his claim and prayed that DDA be directed to make allotment in his favour.

13. DDA has furnished one video clip pertaining to the Jhuggi No.B-402, which was played before the Appellant/Claimant when his statement was recorded before us on 22.03.2024 in which he has stated that the video clip pertains to the Jhuggi No. B-402 and from outside the Jhuggi No. B-402 is clearly seen to be a double storey structure and the Jhuggi of the Appellant/Claimant on the first floor and also an iron ladder going from the ground floor to upper floor are clearly seen and further, his parents Gopal Choudhary & Nirmal are seen and getting the survey conducted on the ground floor of the Jhuggi No. B-402 and further, their room & kitchen are seen and further, "DDA No. 710" is clearly seen to have been written on the front wall of the said Jhuggi No. B-402. However, the video clip of inside the Jhuggi on the first floor of the Appellant/Claimant is not available because it was not made by the survey team and accordingly for that lapse no blame can be placed on the Appellant/Claimant.
14. As pointed out above, no video clip of inside of the first floor of the the double storey Jhuggi bearing No. B-402 is made available by DDA as it was no prepared by the survey team and for that the Appellant/Claimant cannot be blamed. However, it is pertinent to point out that in the video clip prepared by the survey team the Jhuggi No. B-402 is clearly seen to be a double storey structure and further, the Jhuggi of the Appellant/Claimant on the first floor regarding which he is claiming allotment from DDA is clearly seen.
15. The survey records placed on file shows that the Jhuggi of the Appellant/ Claimant was found to exist on the first floor bearing Jhuggi No. B-402 but his claim was rejected by EDC on 31.10.2019 on the sole ground that he was not having separate Ration Card, which was mandatory document for the dwellers claiming allotment from DDA against the upper floor.



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16. The bare perusal of the survey records placed on file by DDA shows that it is no where disputed by DDA as far as the existence of the Jhuggi of the Appellant/ Claimant on the first floor bearing Jhuggi No. B-402 and the Appellant/ Claimant along with his family living there separately & independently and using it for residential purposes is concerned but his claim was rejected on the sole ground that he was not having separate Ration Card inspite of the fact that he is claiming allotment against the first floor bearing Jhuggi No. B-402. The requirement of separate Ration Card for the dwellers claiming allotment against the first floor shall be discussed in detail by us in the later part of this order. Thus the fact remains that the Appellant/ Claimant was having a separate dwelling unit on the first floor bearing Jhuggi No. B-402 and he was having all the requisite documents except the separate Ration Card.
17. There is nothing to disbelieve the statement of the Appellant/Claimant as it has been corroborated by the survey records prepared by the survey team of DDA as well as reflected in the EDC Note and accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-402 was a pucca & an old construction and it comprised of one room on each floor and an iron ladder was placed outside in the gali and it was used for going to the upper floor and it was very much in existence much prior to the cutoff date of 01.01.2015 both the floors were different dwelling units and further his parents, Gopal Choudhary & Nirmala along with their unmarried son Sunil were living on the ground floor and it was a separate dwelling unit bearing Jhuggi No. B-402 and regarding that DDA has made allotment in favour of his mother Nirmala whereas the Appellant/ Claimant along with his family was living separately & independently on the first floor of the said Jhuggi on the cutoff date of 01.01.2015 and it was bearing Jhuggi No. B-402 and the Appellant/ Claimant was using the said Jhuggi for residential purposes.
18. 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 the first floor of Jhuggi No B-402 bearing as per the policy guidelines issued by DDA.
19. The Appellant/ Claimant has stated that her 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 against the first floor of


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Jhuggi No. B-402.

20. 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 cutoff 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 cutoff 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 Voter ID Card & a separate Ration Card on the cutoff 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. Accordingly, there is no illegality in the impugned rejection order bearing No. F/KPC (710)13/Survey/LM/WZ/3572 dated 10.11.2021.

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 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


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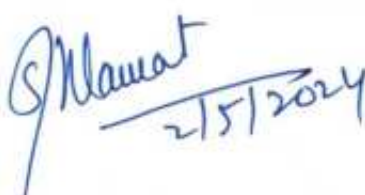
- lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
 9. In case, 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."

22. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey


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conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMENTS OF DOCUMENTS

23. As per Clause 1 (6) Part-B 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 in Clause 2. 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 one of the documents out of list of 12 documents.
24. Thus the bare perusal of the Policy shows that for claiming allotment against the **ground floor** the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff 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 and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.


FIRST FLOOR - REQUIREMENTS OF DOCUMENTS

25. As already pointed out above, condition contained in Clause 1 (10) of Part-B 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."

26. Thus Clause 1 (10) of Part-B 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. Therefore, the dweller, who is not having ration card, will not be eligible for allotment


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even if he possesses any one of the documents out of list of 12 documents.


27. Thus the bare perusal of the Policy shows that for claiming allotment against the first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff 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 and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against the upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

28. The bare perusal of the Policy shows that different criterion has been provided for the JJ dwellers claiming alternative allotment against the ground & first floors in the DDA policy because the dweller, who is claiming allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming allotment against the upper floor, to have a ration card issued before the cutoff date of 01.01.2015. Dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor so on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. But both are required to be treated on parity irrespective of that whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

29. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 470 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the point of ration card was not discussed.


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Therefore, this Appellate Authority changed its view by taking a conservative approach on the requirement of ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further had received 266 appeals on 27.10.2013 pertaining to Kathputli Colony in the second phases and have decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

30. Now the matter has been settled by way of judicial pronouncement as the legality of requirement of a Ration Card as a mandatory document for the dwellers claiming allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the Hon'ble High Court of Delhi in the case of "**Mohammad Hakam and Another versus Delhi Development Authority**" in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022".

31. The facts of the Mohammad Hakim's case (supra) are that the claim of Petitioner No. 1 (before the Hon'ble High Court) was rejected by the EDC and aggrieved by the same he had filed Appeal No. 61 of 2017/04/2017 before this very Appellate Authority and his appeal was allowed by this Appellate Authority vide order dated 30.01.2019 thereby holding that he fulfills the eligibility criteria as per the guidelines issued by DDA, however, the EDC has wrongly and illegally rejected his claim and accordingly DDA was directed to make allotment in his favour with respect to Jhuggi No. E-278, Kathputli Colony. But the order of the Appellate Authority dated 30.01.2019 was set aside by the Administrative Department of DDA and aggrieved by the same Petitioner No. 1 has filed Writ Petition bearing No. W.P. (C) 1585/2022 before the Hon'ble High Court of Delhi. Similarly, the claim of Petitioner No. 2 (before the Hon'ble High Court) was rejected by the EDC and aggrieved by the same he had filed Appeal No. 40 of 2017 before this very Appellate Authority and his appeal was allowed by this Appellate Authority vide order dated 17.08.2018 thereby holding that he fulfills the eligibility criteria as per the guidelines issued by DDA because it was held that the applicant had applied for issuing separate ration card but the concerned authority had refused to issue a separate ration card because of policy of the concerned Food Department and not due to any default or inaction or lapse on his part and thus he had explained the reasons of non issuance of separation card by the Food & Civil Supply Department in his individual name pertaining to the first floor of the Jhuggi in question even


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though he was living separately & independently, however, the EDC has wrongly and illegally rejected his claim and accordingly DDA was directed to make allotment in his favour with respect to Jhuggi No. E-81, Kathputli Colony. But the order of the Appellate Authority dated 17.08.2018 was set aside by the Administrative Department of DDA and aggrieved by the same Petitioner No. 2 has filed Writ Petition bearing No. W.P. (C) 1585/2022 before the Hon'ble High Court of Delhi. Similarly, the claim of Petitioner No. 3 (before the Hon'ble High Court) was rejected by the EDC and aggrieved by the same he had filed Appeal No. 01 of 2017 before this very Appellate Authority and his appeal was allowed by this Appellate Authority vide order dated 19.07.2018 thereby holding that he fulfills the eligibility criteria as per the guidelines issued by DDA because it was held that the applicant had explained the reasons of non issuance of separation card by the Food & Civil Supply Department in his individual name pertaining to the first floor of the Jhuggi in question even though he was living separately & independently, however, the EDC has wrongly and illegally rejected his claim and accordingly DDA was directed to make allotment in his favour with respect to Jhuggi No. B-643, Kathputli Colony. But the order of the Appellate Authority dated 19.07.2018 was set aside by the Administrative Department of DDA and aggrieved by the same Petitioner No. 3 has filed Writ Petition bearing No. W.P. (C) 2514/2022 before the Hon'ble High Court of Delhi. Both the Writ Petitions bearing W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022" were consolidated. However, pursuant to the filing of the writ petition the case of the petitioner No. 1 was re-examined and reviewed by the competent authority of DDA and it was found that his case was inadvertently recommended for 'non-acceptance' by the competent authority due to mixing of his records with other 62 cases, therefore, DDA rectified its mistake by withdrawing the impugned letter of rejection and granting the relief as sought by him in the writ petition. But the relief claimed by the respondent No. 2 & 3 was contested on merit and was decided on 29.02.2023 by **the Hon'ble High Court of Delhi whereby the decisions of the Appellate Authority was upheld thereby setting aside the impugned orders passed by the Administrative Department/Nodal Officer of DDA** wherein it has been held as under: -

"81. In this backdrop, this Court deems it apposite to discuss the concept of Ration card and the aim of issuing the same.

82. The term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for


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the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System.

83. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder.

84. Moreover, this Court shall now peruse the Para 4(6) of Gazette notification No. G.S.R. 104(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution which disallows the use of ration card as a document of identity or proof of residence. The relevant extract has been reproduced herein below:

"4. Ration Cards.-

XXX

(6) Ration card shall not be used as a document of identity or proof of residence."

85. Hence, ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism setup by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card.

86. The aim of the ration card is to ensure that the citizens of this country are provided foodgrains at a reasonable price. Hence, it is not reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System.

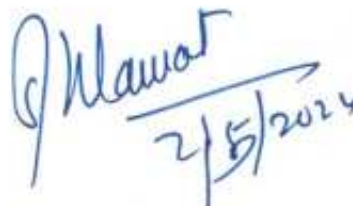
87. Therefore, the respondent has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed gazette notification, definition of ration card as well as the intent behind issuance of the same.

88. Furthermore, in the instant petition the petitioners contended that they have applied for Ration Cards, however, they have not been issued the same by the Competent Authority. In this regard, the Court shall discuss the order of the Coordinate Bench of this Court in writ petition bearing no. **Shanti Devi vs Union of India**¹ wherein the petitioner applied for the ration card in the year 2013 (8 years before), however, she was not issued the same for the last 8 years, despite giving several representations. The afore discussed order has been reproduced herein below:

"1. The petitioner, who claims to be falling within the category of persons Below Poverty Line (BPL)" has approached this Court with the grievance that despite repeated representations made by her, she has not been issued a ration card for the last eight years.

2. On the last date, Mr. Narayan, learned counsel for respondent nos.2 to 4 was


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granted time to obtain instructions. Today, he submits that no ration card could be issued to the petitioner as the limit for issuance of 72 lakh ration cards set by respondent no. 1, based on the Census of 2011, already stands exhausted and therefore, the respondents nos.2 to 4 cannot be faulted for not having issued a ration card to the petitioner."

89. In view of the aforesaid order, it is pertinent to note that ration cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limit for issuance of Ration Card has already been exhausted, therefore, even if a person is eligible to be issued Ration Card, he/ she shall not be issued the same.

90. Hence, in light of the aforesaid submissions by the learned counsel for the Delhi Government in the aforesaid writ petition, this Court is of the considered view that the contention of the petitioners in the instant batch of petitions regarding non- issuance of Ration Card holds water.

91. Keeping in mind the aforesaid circumstances, this Court is of the view that mere non-issuance of a Ration Card cannot be a ground for denial of the alternative allotment to the petitioners. The respondent should have introspected into the issue and accordingly, should have taken step to alleviate issues faced by the poor dwellers of the Kathputali Colony.

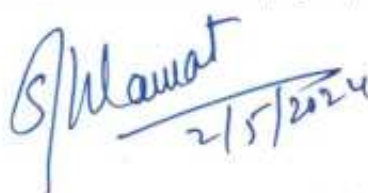
92. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Moreover, it is responsibility of the respondent that they should have introspected into the intent and motive behind issuing of the Ration Card which is distribution of food through Public Distribution System.

93. Therefore, the requirement of a Ration Card as mandatory document to be produced before the respondent as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. The respondent should have exercised due caution and care before adhering to such a requirement. It should take a fair and realistic view of the circumstances before it.

94. The respondent should introspect on the fact that how much harassment and pain must have been caused to the petitioners due to such arbitrary requirements. The afore discussed actions of the respondent is in clear violation of the petitioners' right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of this Court in the judgment of **Udal v. Delhi Urban Shelter Improvement Board and Ors² 2017 SCC OnLine Del 9715** as follows:

"15. It is trite that the right to housing is an essential part of Right to Life and a fundamental right ensured by Article 21 of the Constitution of India. It has also been held that the right to life is not right to merely an animal existence but an entitlement to reasonable accommodation (Ref.: (1996) 2 SCC 549, Chameli


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Singh v. State of U.P. and (1990) 1 SCC 520, Shantistar Builders v. Narayan Khimalal Totame). The contours of this right were further expanded by a pronouncement of the Supreme Court reported at (1997) 11 SCC 121, *Ahmadabad Municipal Corporation v. Nawab Khan Gulab Khan* wherein the court held that when slum dwellers have been residing at a place for some time, it became the duty of the government to make schemes for housing these jhuggi dwellers. Relying on the principles laid down in these judgments, this court in 168 (2010) DLT 298, *Sudama Singh v. Government of Delhi* has relied upon the provisions of the Delhi Master Plan and emphasized in-situ rehabilitation of the slum dwellers.

16. Judicial notice can be taken of the fact that the National Capital Territory of Delhi attracts people, especially poor people, from all over the country who come to the city in search of work and must reside reasonably near to their place of work. In recognition of the responsibility to house the poor in a permanent humane manner, the Government of NCT of Delhi announced "Delhi Slum and JJ Rehabilitation and Relocation Policy, 2015". Under Clause 2(a), Delhi Urban Shelter Improvement Board („DUSIB“ hereafter) was appointed as the nodal agency for implementation of the policy."

95. Accordingly, this Court is also of the view that the petitioners' right to housing shall be kept at the highest pedestal. It is one of the safeguards provided in our Constitution and the legacy has been carried forward by the writ Court by way of various judicial precedents which reiterates the same.

96. In the instant petitions, the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over quasi-judicial matters already adjudicated upon by the appellate authority. This aforesaid act of the Nodal officer of the respondent underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petition are set-aside.

97. The decision of the appellate authority is upheld which held that the petitioners are in possession of other documents as stipulated by Clause 2 of the Policy as well as the aforesaid documents are issued before the cut-off date, hence, the petitioners are entitled for an alternative dwelling unit and their claims shall be admitted by the respondent.

98. Accordingly, this Court holds that the impugned orders passed by the Nodal Officer of the respondent are liable to be set-aside.

CONCLUSION

99. The afore-discussed actions of the respondent, ostensibly operating within the framework of legality, struck at the heart of justice, undermining the very principles upon


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which the judicial system purportedly stands. Subsequent to the petitioners' challenge of the initial rejection, the issuance of a second letter of rejection by the respondent compounded the petitioners' anguish. This second rejection purportedly cited new reasons for denial, yet failed to withstand scrutiny in light of legal precedents previously established by the writ Courts and of particular note was the justification provided by the respondent for the second rejection, namely, the purported non-filing of a ration card by the petitioner. Such a justification, given the petitioner's provision of alternative legal proofs of identity consistent with statutory requirements and prior judicial interpretation, underscored the arbitrary nature of the respondent's actions.

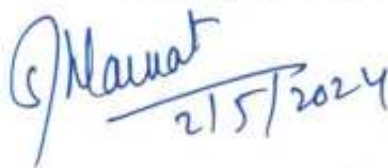
100. The petitioner's distress, exacerbated by the respondent's actions, exemplified the inherent flaws within the legal system, which too often favours the powerful over the marginalized. The respondent's actions, shielded by the veneer of legality, served to perpetuate systemic injustices, leaving the petitioners vulnerable.

101. The Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the jhuggis there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the jhuggis especially in the light of the paragraph no. 4(6) of Gazette Notification No. G.S.R. 104(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution which disallows the use of ration card as a document of identity or proof of residence. Moreover, the intent of issuance of Ration Card is distribution of essential food items by Public Distribution System and hence, it does not intent on being used as an identity proof or an address proof.

102. Hence, the Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 (PART-B) has wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card.

103. This Court is of the view that the respondent shall consider other documents issued before the cut-off date i.e., 1st January 2015 as enlisted in Clause 2 of The Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 (PART-B) which are as follows: Passport, 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 (except EPIC), Pass book issued by Public Sector Banks/ Post Office with photograph, SC/ST/OBC Certificate issued by the Competent Authority Pension document with photograph such as Ex-serviceman's Pension Book, Pension Payment Order, Ex-serviceman widow/dependent certificate, old age pension order or widow pension order, Freedom Fighter Identity Card with photograph, Certificate of physically handicapped with photograph issued by the Competent Authority, Health Insurance Scheme Smart card with photograph (Ministry of Labour scheme, Identity card with photograph issued in the name of the descendants) of the slum dweller from a Government school or Certificate with photograph issued by the Principal of a


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Government School mentioning therein that the descendants) of the JJ dweller is/was the student of the school.

104. In view of the aforesaid discussion, the impugned orders dated 3rd July 2020 in both writ petitions are quashed by this Court by way of exercising its jurisdiction vested under Article 226 of the Constitution of India. Accordingly, the instant petitions are allowed.

105. This Court directs the respondent to allocate an alternative dwelling unit in favor of the petitioners subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of The Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 (PART-B) issued before the cut-off i.e., 1st January 2015, the deposit of amount as stipulated by the respondent as well as any other requirement as mandated by the respondent.

106. Accordingly, the instant petitions alongwith pending applications, if any, are disposed of.

107. The judgment to be uploaded on the website forthwith."

32. The Hon'ble High Court had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) OF Gazette Notification No. G.S.R. 104(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

33. It is further held that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as

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the intent behind issuance of the same.

34. It was also pointed out that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separation card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.
35. It is further held that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The decision of the Appellate Authority were upheld, which held that the petitioners were in possession of other documents as stipulated by Clause 2 of the Policy as well as the aforesaid documents are issued before the cut-off date, hence, the petitioners were held entitled for an alternative dwelling unit and their


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claims shall be admitted by the respondent/DDA and accordingly, the impugned orders passed by the Nodal Officer of the DDA were set aside.

36. Therefore, the facts of the present appeal are squarely covered by the facts of the Mohammad Hakim's case (supra) wherein the Hon'ble High Court of Delhi has held that the DDA policy as per Clause (1) (x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggis there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis and it has been held that the DDA policy, 2015 (PART-B) has wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered.

37. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor. In view of our discussion above, the bare perusal of the DDA Policy 2015 in the light of judgment in Mohammad Hakim's case (supra) shows that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & 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 and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

GIST OF THE POLICY

38. In the light of our discussion above, we shall now appraise the material placed on file by 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 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 she possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment


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against the first floor of Jhuggi No. B-402 as per the policy guidelines issued by DDA.

39. Here it is pertinent to mention that the Appellant/ Claimant has sought alternate allotment under insitu Slum Redevelopment policy against the first floor of Jhuggi No. B-402, Kathputli Colony as per the policy guidelines issued by DDA. The survey was conducted in respect of the said Jhuggi and the documents, i.e., Voter ID Card & Aadhar Card etc. relating to the Appellant/ Claimant & her family members, which were furnished by the Appellant/ Claimant, were also got verified and all the materials including video clips were placed before the Eligibility Determination Committee but it has rejected the claim of the present Appellant/ Claimant and the same was communicated to the Appellant/Claimant by the Nodal Officer, KPC, vide Rejection Order dated 10.11.2021 whereby the reasons for rejection is mentioned to be **"UPPER FLOOR JHUGGI as per policy guidelines separate Ration card is required"**. This shows that the claim of the Appellant/Claimant was rejected on the sole ground that he was not having separate Ration Card, thereby, showing that DDA has not disputed about the existence of Jhuggi No. B-402 of the Appellant/Claimant on the cutoff date of 01.01.2015 and using the said Jhuggi for residential purposes and further he was also having all other requisite documents and making compliance of all other mandatory conditions except that she was not having separate Ration Card. Therefore, 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, on the cutoff date of 01.01.2015.
40. The Appellant/Claimant has tendered his Voter ID Card No. SMM 1314244 (Annexure-D), Aadhar Card (Annexure-E), Voter List of the year 2012 (Annexure-N), Voter List of the year 2013 (Annexure-O) and Voter List of the year 2015 (Annexure-P).
41. It is pointed out that the Voter ID Card No. SMM 1314244 (Annexure-D) of the Appellant/Claimant has been issued on 19.02.2013, much prior to the cutoff date 01.01.2015. The Appellant/Claimant has tendered his Aadhar Card (Annexure-E) which is bearing No. 8004 3736 4842. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 752 in the Voter List of the year 2012 (Annexure-N), at Sl. No. 860 in the Voter List of the year 2013 (Annexure-O) and at Sl. No. 784 in the Voter List of the year 2015 (Annexure-P). It is also pointed out that in the Voter Lists (Annexure-N to Annexure-P) the number of the Voter ID Card of the Appellant/Claimant is mentioned to be bearing No. SMM 1314244 and further in all the above-mentioned documents the address of the Appellant/Claimant is mentioned to be Jhuggi No. B-


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402 regarding which the Appellant/Claimant has been claiming allotment from DDA. Therefore, the material placed on file shows that the Appellant/Claimant was having Aadhar Card and also a valid Voter ID Card on the cutoff date of 01.01.2015 and further his name also appears in the voter list of the year's 2012, 2013 and 2015, therefore, the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

42. It is pointed out that in **Udal v. Delhi Urban Shelter Improvement Board and Ors² 2017 SCC OnLine Del 9715** the Hon'ble High Court of Delhi has found that the petitioners have produced the documents, including the National Food Security Card, Ration Card, Gas/Oil Bill, Electricity Bill, BSES Meter Change Report, School Leaving Certificates, School Progress Report of Children, Report Card of Children, Aadhar Cards, Driving Licences, Passbooks, PAN Card, Death Certificate of the Spouse of one of the parties, LIC Policy but they could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy. The Hon'ble High court held as under: -

"33.Therefore, even though these petitioners could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy, however, if an holistic view is undertaken of the documentation as produced, it would amply establish the residence and existence of these persons at the Rajiv Camp for the periods from 1998 till 2016."

"38. Mr. Parvinder Chauhan, Id. Standing Counsel for respondent no.1 has staunchly contended that the requirement of Clause 1(iii) of Part-B of R& R Policy to the effect that the name of the person must feature in the electoral roll for any of the prescribed five years, is mandatory and the failure for the name to appear in such electoral roll must be fatal so far as consideration for allotment of alternative flat for rehabilitation under the R&R Policy is concerned. In the given facts and circumstances, we are unfortunately unable to agree with this submission. The records placed by these persons include National Food Security Cards, Ration Cards, Oil/Gas Bill, SC/ST Certificates, Electricity Bill, LIC Policies, Gas Connection Records and Bills, Driving Licences, Passbooks, Birth Certificate of Children as well as records of School Admission of Children, their Progress Report Cards, all of which show their continued existence on the spot. A realistic view has to be taken in this regard. We find that the persons who were found ineligible were in possession of public identification including Voter ID - cards. The failure of the names

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of such persons to feature in the electoral roll could be for any number of reasons. The same could happen, if the person was not at home at the time the Booth Level Officer visited Jhuggi of the person concerned. This could be on account of the occupation of the person or for the person and adults of the family having left the Jhuggi for work. Obviously, the Booth Level Officer or any persons conducting the survey would not have met the adult members of the family. There would thus not be any adult members of the family to give the information for names to be included in the electoral rolls."

"40. We find that as per Clause 2 of PART - B of the R&R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents. In the above cases, the Jhuggi Jhopri dwellers have produced multiple records ranging to periods in the late 1990s till date. In this view of the matter, the persons detailed in paras 37 and 38 above are clearly entitled to the benefit of the policy. We are of the view that the ineligibility letter dated 22nd December, 2016 by the respondents have been issued to these persons because of a disjoint reading of Clause 1(iii) and Clause 2 of PART - B of the policy. The same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1(iii) and Clause 2 of Part-B of the R&R Policy, 2015."

43. Therefore, the present appeal is squarely covered by the facts of Udal's case (supra) decided by the Hon'ble High Court of Delhi wherein it has been held that as per Clause 2 of PART-B of the R & R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents and we cannot give a disjoint reading of Clause 1 (iii) and Clause 2 of PART - B of the policy but the same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1 (iii) and Clause 2 of PART-B of the R & R Policy, 2015.

44. On this aspect it is pertinent to point out that when the Jhuggi of the Appellant/Claimant is found to exist on the cutoff date of 01.01.2015 and he is also found to be having a Aadhar Card and also a valid Voter ID Card on the cutoff date of 01.01.2015 and his name also appears in the voter list of the year's 2012, 2013 and 2015 and also he possesses any one document out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 then his claim can not be rejected by taking hyper technical view especially when he was having a valid Voter ID Card dated 19.02.2013 (Annexure-D) on the cutoff date of 01.01.2015 and further his


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name also appears in the voter list of the year 2012 (Annexure-N), in the Voter List of the year 2013 (Annexure-O) and in the Voter List of the year 2015 (Annexure-P) and he as well his family are having documents to show that they have been living in the said Jhuggi much prior to the cutoff date of 01.01.2015.

45. Now we shall appraise the material placed on file to determine as to whether there are documents placed on file to shows that the Appellant/Claimant along with his family was living in Jhuggi No. B-402 Survey since long and more particularly on the cutoff date of 01.01.2015 and whether they have got the documents issued in their favour prior to the cutoff date of 01.01.2015 to lent support to the claim put forward by the Appellant/Claimant.
46. The Appellant/Claimant has tendered Voter ID Cards & Aadhar Cards belonging to him and family members, Electoral Rolls, Birth Certificates of her children & Ration Card and all these documents have been issued much prior to the cutoff date of 01.01.2015 and it accordingly amply establishes that she as well as his family members have been living on the first floor of the Jhuggi No. B-402, Kathputli Colony, since long and more particularly on the cutoff date of 01.01.2015 and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.
47. The Appellant/Claimant has tendered Voter ID Card No. SMM 2640324 (Annexure-F) & Aadhar Card (Annexure-G) of his wife Karishma and Aadhar Card (Annexure-H) of his son, Arvash, Birth Certificate (Annexure-I) of his daughter Anshi, Electricity Bill (Annexure-J), No Dues Certificate (Annexure-K), the Passbook of Syndicate Bank (Annexure-L) and Ration Card (Annexure-M) in support of his claim.
48. It is pointed out that the Voter ID Card No. SMM 2640324 (Annexure-F) of his wife Karishma has been issued on 10.09.2013, much prior to the cutoff date 01.01.2015. The Appellant/Claimant has tendered the Aadhar Card (Annexure-G) of his wife Karishma bearing No. 4052 3590 4508 and it has been issued on 07.05.2014, much prior to the cutoff date 01.01.2015. Further, the Birth Certificate (Annexure-I) of his daughter, Anshi has been issued on 15.09.2016 thereby recording that her date of birth is 22.09.2014. The Electricity Bill (Annexure-J) shows that the electricity connection has been taken by his mother Nirmala on 10.09.2000. Further, No Dues Certificate (Annexure-K) issued by Tata Power-DDL shows that his mother Nirmala had taken electricity connection in Jhuggi No. B-402. On this point it is suffice to point out that taking electricity connection by parents on the ground floor and sharing


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connection with their children, who happen to be living on the first floor is very common. The Passbook of Syndicate Bank (Annexure-L) shows that his father Gopal had opened the account on 20.06.2011. Furthermore, Ration Card No. 077004793894 (Annexure-M) has been issued on 22.12.2014 in favour of his mother Nirmala and the name of the Appellant/Claimant is mentioned. Further, the Report (Annexure-Q) downloaded from Internet shows that the Ration Card No. 077004793894 was applied on 13.12.2013 and it was approved on 22.12.2014. It is pointed out that the Appellant/Claimant has specifically stated that he had applied for issuance of separate Ration Card on his name but the same was not issued in his favour because of the rules/instruction of the Food & Supply Department and accordingly this shows that the separate Ration Card was not issued not because of any action on the part of the Appellant/Claimant but because of the policy of the concerned department and for that the Appellant/Claimant cannot be penalized. It is pointed out that all these documents pertain to the family members of the Appellant/Claimant and have been issued much prior to the cutoff date of 01.01.2015 on the address of the Jhuggi No. B-402, Kathputli Colony, regarding which the Appellant/Claimant has been claiming allotment from DDA. These documents also corroborate that the Appellant/Claimant along with his family members was living in the Jhuggi No. B-402 since long and much prior to the cutoff date of 01.01.2015.

49. This shows that the Appellant/Claimant has tendered Voter ID Cards & Aadhar Cards belonging to him and that of his family members, Electoral Rolls, Ration Card, Bank Passbooks and Birth Certificates of his children and all these documents have been issued from 2013 to 2015 and it accordingly, amply establishes that he as well as his family members have been living in Jhuggi No. B-402, Kathputli Colony, since long and more particularly on the cutoff date of 01.01.2015.
50. As per our discussion above, the Appellant/Claimant has placed on file cogent materials on file to show that he along with his family was living in Jhuggi No. B-402 since long and more particularly on the cutoff date of 01.01.2015 and that is why the Appellant/Claimant had got his Voter ID Card (Annexure-D) & Aadhar Card (Annexure-E) issued on the address of Jhuggi No. B-402 and further the Voter ID Card (Annexure-D) has been issued much prior to the cutoff date of 01.01.2015 and furthermore, the Voter ID Card (Annexure-F) & Aadhar Card (Annexure-G) of his wife Karishma have been issued much prior to the cutoff date of 01.01.2015 on the address of Jhuggi No. B-402. Furthermore, the Aadhar Card (Annexure-H) of his son Arvash as well as the Birth Certificate (Annexure-I) of his daughter Anshi have also been issued on the address of


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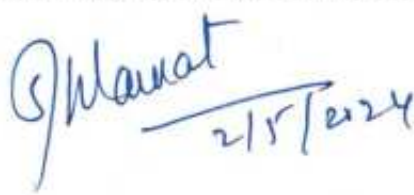

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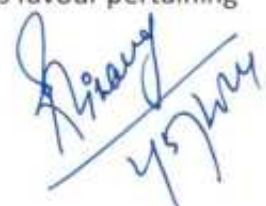

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Jhuggi No. B-402. This gives credence to the claim put forward by the Appellant/Claimant that he along with his family members was living in Jhuggi No. B-402 since long and more particularly on the cutoff date of 01.01.2015.

51. The fact can not be lost that the Appellant/Claimant is having a valid Voter ID Card No. SMM 1314244 dated 19.02.2013 (Annexure-D), which has been issued much prior to the cutoff date of 01.01.2015 and it has been issued on the address of Jhuggi No. B-402 regarding which he has been claiming allotment from DDA. The Aadhar Card (Annexure-E) of the Appellant/Claimant has also been issued on the address of Jhuggi No. B-402 regarding which the Appellant/Claimant has been claiming allotment from DDA. Further, the name of the Appellant/Claimant appears at Sl. No. 752 in the Voter List of the year 2012 (Annexure-N), at Sl. No. 860 in the Voter List of the year 2013 (Annexure-O) and at Sl. No. 784 in the Voter List of the year 2015 (Annexure-P) and in all the Voter Lists the number of his Voter ID Card is mentioned to be 1314244 dated 19.02.2013 and the address is mentioned to be Jhuggi No. B-402 regarding which he has been claiming allotment from DDA. Furthermore, the Voter ID Card No. SMM 2640324 dated 07.05.2014 (Annexure-F) & Aadhar Card (Annexure-G) of his wife Karishma have been issued much prior to the cutoff date of 01.01.2015 on the address of Jhuggi No. B-402 regarding which he has been claiming allotment from DDA. In addition to that the documents (Annexure-H to Annexure-M) pertains to the family members of the Appellant/Claimant and all have been issued on the address of Jhuggi No. B-402 regarding which the Appellant/Claimant has been claiming allotment from DDA. This accordingly corroborates the statement of the Appellant/Claimant that he along with his family has been living on the first floor of Jhuggi No. B-402 much prior to the cutoff date of 01.01.2015. Furthermore, as per our discussion above, the statement of the Appellant/Claimant has been fully supported by survey records prepared by the survey team of DDA to show that the Jhuggi No. B-402, Kathputli Colony was a double storey structure and the Appellant/Claimant along with his family was living on the first floor of the said Jhuggi and using the same for residential purposes. The material placed on file shows that the EDC has wrongly rejected the claim of the Appellant/Claimant on the sole ground that she was not having separate Ration Card inspite of the fact that she is claiming allotment from DDA against the upper floor. The Appellant/Claimant has stated that he had applied for issuing of separate Ration Card but the concerned authority has refused to issue a separate Ration Card in favour of the Appellant/Claimant pertaining to the first floor of Jhuggi No. B-402. This shows that the Appellant/Claimant could not get a separate Ration Card issued in his favour pertaining


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to the first floor of Jhuggi No. B-402 because of policy of the concerned Food & Civil Supply Department and not due to any fault or inaction or lapse on part of the Appellant/Claimant. Hence this explains as to why the Appellant/Claimant could not get the separate Ration Card issued in her favour in spite of the fact that he was living separately & independently on the first floor of Jhuggi No. B-402 and as already pointed out in the survey records of DDA it is mentioned that the survey team has found that the Appellant/ Claimant was living separately & independently on the first floor of Jhuggi No. B-402 and this fact is duly reflected in the EDC Note. Furthermore, the fact cannot be lost sight that in view of Mohammad Hakim's case (supra) Ration Card is not a mandatory document for the dwellers claiming allotment from DDA against the first floor but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the DDA policy has to be considered. It is pointed out that the documents placed on file further corroborates the claim of the Appellant/ Claimant that he as well his family members were having all the requisite documents and he possess one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and accordingly the Appellant/ Claimant is entitled to claim allotment from DDA as per the policy guidelines issued by DDA. But the Eligibility Determination Committee without any basis had come to the wrong conclusion that the Appellant/ Claimant is not eligible to get alternative allotment on the sole ground that he was not having separate Ration Card inspite of the fact that he is claiming allotment from DDA against the upper floor and accordingly, the same is not sustainable in the eyes of law. It is pointed out that the documents placed on file further corroborates the claim of the Appellant/ Claimant that he as well his family members were having all the requisite documents as per the policy guidelines issued by DDA, therefore, the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

52. The Appellant/ Claimant has contended that her claim was ultimately rejected by the Eligibility Determination Committee vide order dated 10.11.2021 in spite of the fact that much earlier to that DDA has made provisional allotment by allotting Flat No. 4, Block-A-15, Ground Floor, Pocket-04, Sector-7G, Narela vide Allotment Letter dated 25.10.2017 (Annexure-A) and issuing Possession Slip No. 266 dated 03.11.2017 (Annexure-B) along with Inventory in his favour but these facts were not duly considered by EDC. Accordingly, he has come before us thereby challenging the order of rejection dated 10.11.2021.

53. It is not disputed that DDA has made provisional allotment in favour of the present Appellant/


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Claimant and had allotted Flat No. 4, Block-A-15, Ground Floor, Pocket-04, Sector-7G, Narela vide Allotment Letter dated 25.10.2017 (Annexure-A) and issued Possession Slip No. 266 dated 03.11.2017 (Annexure-B) along with Inventory in his favour whereas his claim was finally rejected by the EDC on 10.11.2021. Now we shall consider as to what is the legal effect of the allotment of Flat No. 4, Block-A-15, Ground Floor, Pocket-04, Sector-7G, Narela vide Allotment Letter dated 25.10.2017 (Annexure-A) and issuance of Possession Slip No. 266 dated 03.11.2017 (Annexure-B) along with Inventory in his favour and whether any right of allotment was created in favour of the Appellant/ Claimant merely by issuing DS etc. by DDA in his favour.

54. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly according to the merit of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey of 2010-2011 and of July 2017 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.
55. Now coming to the fact of the present case it is pertinent to point out that the bare reading of the Allotment Letter dated 25.10.2017 (Annexure-A) placed on file shows that the allotment of Flat No. 4, Block-A-15, Ground Floor, Pocket-04, Sector-7G, Narela vide Allotment Letter dated 25.10.2017 (Annexure-A) and issuance of Possession Slip No. 266 dated 03.11.2017 (Annexure-B) along with Inventory in his favour was subject to fulfillment of terms and conditions of guidelines issued by DDA and this was subject to final scrutiny of eligibility of the Appellant/ Claimant by the Eligibility Determination Committee (EDC) as per the policy guidelines issued by DDA. Furthermore, The Appellant/ Claimant had also submitted an Affidavit dated 03.11.2017 (Annexure-C) thereby giving an undertaking that if any fact/document is/are found to be false/fake, then his provisional allotment would be cancelled. Thus there is no doubt that DDA has made provisional allotment by allotment of Flat No. 4, Block-A-15, Ground Floor, Pocket-04, Sector-7G, Narela vide Allotment Letter dated 25.10.2017 (Annexure-A) and issuance of Possession Slip No. 266 dated 03.11.2017 (Annexure-B) along with Inventory in his favour and this was subject to final scrutiny of eligibility of the Appellant/ Claimant by the


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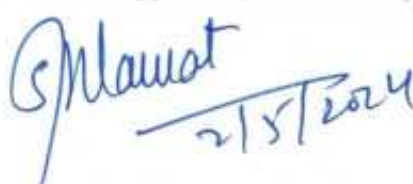

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Eligibility Determination Committee as per the policy guidelines issued by DDA and right of allotment was created in favour of the Appellant/ Claimant by issuing Allotment Letter dated 25.10.2017 (Annexure-A) etc. but EDC has wrongly rejected the claim of the Appellant/ Claimant solely on the ground that he was not having separate Ration Card inspite of the fact that he was having all the requisite documents and fulfills the eligibility criteria as per the guidelines issued by DDA especially when there is no requirement of separate Ration Card for the dwellers claiming allotment against the upper floor in view of Mohammad Hakim's case (supra).

56. As already pointed out the statement of the Appellant/Claimant has been corroborated by the survey records prepared by the survey team of DDA as well as reflected in the EDC Note and accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-402 was a pucca & an old construction and it was very much in existence much prior to the cutoff date of 01.01.2015 both the floors were different dwelling units and further his parents, Gopal Choudhary & Nirmala, were living on the ground floor of the Jhuggi No. B-402 and it was a separate dwelling unit and regarding that DDA has made allotment in favour of his mother Nirmala whereas the Appellant/ Claimant along with his family was living separately & independently on the first floor of the said Jhuggi on the cutoff date of 01.01.2015 and it was bearing Jhuggi No. B-402 and the Appellant/ Claimant was using the said Jhuggi for residential purposes. It is pertinent to point out that DDA has not disputed about the existence of Jhuggi of the Appellant/Claimant on the first floor bearing Jhuggi No. B-402 but his claim was rejected wrongly by the EDC on the sole ground that he was not having separate Ration Card. The material placed on file shows that the Appellant/ Claimant along with his family was living separately & independently on the first floor of Jhuggi No. B-402 and further as per our discussion above, the documents placed on file shows that the Appellant/Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and his name also appears in the voter list of the year's 2012, 2013 & 2015 and furthermore, the documents placed on file also corroborates that the Appellant/Claimant along with his family was living on the first floor of Jhuggi No. B-402 regarding which he is claiming allotment from DDA. Furthermore, DDA has made provisional allotment by allotment of Flat No. 4, Block-A-15, Ground Floor, Pocket-04, Sector-7G, Narela vide Allotment Letter dated 25.10.2017 (Annexure-A) and issuance of Possession Slip No. 266 dated 03.11.2017 (Annexure-B) along with Inventory in his favour and right of allotment was created in favour of the Appellant/ Claimant by issuing Allotment Letter


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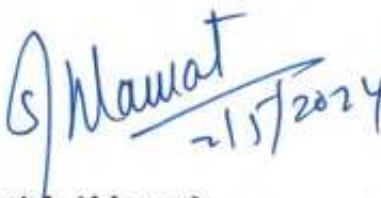
dated 25.10.2017 etc. In the light of our detailed discussion, we have no hesitation in holding that the Appellant/ Claimant was having all the requisite documents and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

57. 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 policy guidelines issued by DDA. But the Eligibility Determination Committee has wrongly and illegally rejected her claim. Hence the present appeal No. 47 of 2023 stands allowed, hereby, setting aside the impugned order communicated vide vide order bearing No. F/KPC (710)13/Survey/LM/WZ/3572 dated 10.11.2021 issued by the Nodal Officer, Kathputli Colony. DDA is hereby directed to make alternative allotment in favour of Appellant/ Claimant, Laxman Choudhary S/o Gopal Choudhary, in respect of the first floor of Jhuggi No. B-402, Kathputli Colony.
58. 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) 21/5/2024


Jt. Secretary (Retd.) GOI

MEMBER


(Satish Ahlawat) 21/5/2024

Addl. District & Sessions Judge (Retd.)

CHAIRMAN


(Rachna Tiwary) 21/5/2024

EXPERT MEMBER

**BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/
REDRESS THE GRIEVANCES RELATED TO DETERMINATION/
RELOCATION OF JJ DWELLERS OF KATHPUTLI COLONY**

Appeal No: 171 of 2023

Date of Institution: 27.10.2023

Date of Order: 07.05.2024

Present: Appellant/ Claimant Irfan S/o Chander

Sh. Radhey Shyam Meena, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 10.11.2021 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant has made a Representation to the Competent Authority, thereby, alleging that he is living in Jhuggi bearing No. C-215/H-266 in Kathputli Colony. A Notice by DDA was pasted in the Kathputli Colony to inform the Jhuggi dwellers about the survey to be conducted in the said basti. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. He was found provisionally eligible and accordingly Relocation-cum-Allotment Slip, which is commonly called as "DS" No. 00525 dated 21.12.2016 was issued in favour of Appellant/Claimant subject to final approval by Eligibility Determination Committee (hereinafter called EDC) on merits after scrutiny of the required documents and her fulfilling the requisite conditions as per the policy guidelines issued by DDA. Further, Verification Slip dated 21.12.2016 was also issued in his favour and a Tripartite Agreement dated 21.12.2016 was also executed. Thereafter, Flat No. 51, Block-A-10, Pocket-4, Second Floor, Narela Sector-7-G was allotted by DDA to the Appellant/Claimant by issuing Allotment Letter and Possession Slip No. 351 dated 08.11.2017 along with inventories was also issued to him. The Appellant/Claimant had also tendered an Affidavit dated 21.12.2016 thereby giving an undertaking that if any fact/document is/are found to be false/forged, then his provisional allotment shall be liable to be cancelled. Further, the Appellant/ Claimant has shifted to Narela


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after DDA has made provisional allotment in his favour. Subsequently, the Eligibility Determination Committee has considered the claim of the Appellant/ Claimant on merits and on verifications of documents submitted by the Appellant/ Claimant the Eligibility Determination Committee has come to the conclusion that the present Appellant/ Claimant does not fulfill the eligibility criteria as per the policy guidelines issued by DDA and accordingly rejected his claim and the Nodal Officer, Kathputli Colony, duly communicated its order bearing No. F/KPC (N-00151)13/Survey/LM/WZ/4064 dated 10.11.2021 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 171 of 2023 has been filed by the present Appellant/Claimant.

3. It is pointed out that in the month of October 2023 a bunch of about 250 appeals pertaining to Kathputli Colony has been sent to the Appellate Authority for disposal. After receiving of appeals files the same were ordered to be checked & registered and this Appellate Authority has directed to issue notice to procure the presence of the present Appellant/Claimant with the direction that it be got served by deputing official/special messenger and the copy of the same be also pasted on the Notice Board in the Transit Camp, Anand Parbat/Narela as well as on the main gate of the accommodation/flat situated in Transit Camp/Narela in which the Appellant/Claimant is at present living temporarily and in addition to that an attempt be also made by the Call Centre of DDA to intimate the Appellant/Claimant by calling him on his mobile number. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam, Dy. Director.
4. The statement of the Appellant/Claimant has been recorded before us on 06.02.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-W, in support of his claim. However, the Appellant/Claimant had refused to sign his statement and remarks to that effect has been given that adverse inference, if any, shall be drawn at appropriate stage. 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. Radhey Shyam, Dy. 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-


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215/H-266, Kathputli Colony was found to exist but it was found to be case of double allotment and he had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternative 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 10.11.2021 whereby the reasons for rejection is mentioned to be **"Double claim against one Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. 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 by taking holistic & realistic view to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name 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 and whether it is the case of double allotment and whether he is entitled to claim allotment against the first floor of Jhuggi bearing No. C-215/H-266 as per the policy guidelines issued by DDA.
8. Here it is pertinent to mention that the Appellant/ Claimant has sought alternate allotment under insitu Slum Redevelopment policy against the single storey Jhuggi No. C-215/H-266 bearing DDA No. 571, Kathputli Colony, as per the policy guidelines issued by DDA. The survey was conducted in respect of the said Jhuggi and the documents, i.e., Voter ID Card & Aadhar Card etc. relating to the Appellant/ Claimant & his family members, which were furnished by the Appellant/ Claimant, were also got verified and all the materials including video clips were placed before the Eligibility Determination Committee but it has rejected the claim of the present Appellant/ Claimant and the same was communicated to the Appellant/Claimant by the Nodal Officer, KPC, vide Rejection Order dated 10.11.2021 whereby the reasons for rejection is mentioned to be **"Double claim against one Jhuggi"**. This shows that the claim of the Appellant/Claimant was rejected on the sole ground that this case was case of double claim against one Jhuggi, thereby, showing that DDA has not disputed about the existence of Jhuggi of the single storey Jhuggi No. C-215/H-266 bearing DDA No. 571 of the Appellant/Claimant on the cutoff date of 01.01.2015 and using the said Jhuggi for residential purposes and further he was also having all other requisite documents and making compliance of all other mandatory conditions except that this was allegedly case of double claim against one Jhuggi. Therefore, in


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the light of our discussion above, we shall now appraise the material placed on file to determine as to whether it is the case of double allotment and as to whether the Appellant/ Claimant was having all the requisite documents, on the cutoff date of 01.01.2015.

9. The statement of the Appellant/Claimant Irfan has been recorded before us on 06.02.2024 wherein he has stated his parents, Chander & Bano, were having four sons; Imran, Irfan, Latif & Nazim and five daughters; Hanifa, Israno, Latifan, Gudia & Parvina. Chander had expired in the year 2011. All the children except Parvina are married. Israno is married with Mota, Latifan is married with Razdar & Gudia is married with Amir Khan and all of them are living in their respective matrimonial homes in Ballabgarh, Haryana. Hanifa is married with Ilias and she was living in her matrimonial home in Kathputli Colony and regarding that DDA has made allotment in favour of Hanifa against her matrimonial side. Imran is married with Afsana and having five children. Latif is married with Sanah and having one child. Nazim is married with Sama and having one child. Irfan (Appellant/Claimant) is married with Suhana and having three children, Sunaina, Sufian Khan & Arhan.
10. The Appellant/Claimant has stated that his family was having four adjoining Jhuggis in Kathputli Colony. All the four Jhuggis were single storey structure and bearing the same number i.e. C-215/H-266 but all the four Jhuggis were having different Survey Numbers.

First Jhuggi - Jhuggi No. C-215/H-266 Survey No. 569

11. The Appellant/Claimant has stated that his mother Bano along with the family of her son Nazim & unmarried daughter Parvina was living on the ground floor of the Jhuggi No. C-215/H-266 bearing DDA No. 569 and regarding that DDA has made allotment in favour of his mother Bano and she has shifted to the Transit Camp, Anand Parbat. These facts are not disputed by DDA.

Second Jhuggi - Jhuggi No. C-215/H-266 Survey No. 570

12. The Appellant/Claimant has stated that his brother Imran along with his wife Afsana and all the five children was living in the Jhuggi No. C-215/H-266 bearing DDA No. 570 and regarding that DDA has made allotment in favour of his brother Imran and he along with his family has shifted to the Transit Camp, Anand Parbat. These facts are not disputed by DDA.

Third Jhuggi - Jhuggi No. C-215/H-266 bearing new Survey Number

13. The Appellant/Claimant has stated that his brother Latif along with his wife Sanah and child was living in the Jhuggi No. C-215/H-266 bearing new Survey Number and regarding that DDA has


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made allotment in favour of his brother Latif and he along with his family has shifted to Narela. These facts are not disputed by DDA.

Fourth Jhuggi - Jhuggi No. C-215/H-266 Survey No. 571

14. The Appellant/Claimant has stated that he along with his wife Suhana and all the three children, Sunaina, Sufian Khan & Arhan, was living in the Jhuggi No. C-215/H-266 bearing DDA No. 571. The Appellant/Claimant had sought allotment from DDA against the said Jhuggi No. C-215/H-266 and regarding that, DDA has made provisional allotment in his favour subject to final approval by Eligibility Determination Committee on merit and had issued a DS No. 00525 dated 21.12.2016 (Annexure-A) & Verification Slip dated 21.12.2016 (Annexure-B) in his favour and the Tripartite Agreement dated 21.12.2016 (Annexure-C) was also executed. Thereafter, Flat No. 51, Block-A-10, Pocket-4, Second Floor, Narela Sector-7-G was allotted to the Appellant/Claimant by DDA vide Allotment Letter (Annexure-E) and further Possession Slip No. 351 dated 08.11.2017 (Annexure-F) along with inventories was also issued in his favour. The Appellant/Claimant has also submitted an Affidavit dated 21.12.2016 (Annexure-D) thereby giving an undertaking that if any fact/document is/are found to be false/forged, then his provisional allotment is liable to be cancelled. The Appellant/Claimant had accordingly shifted to Narela after DDA has made provisional allotment in his favour.
15. The Appellant/Claimant has stated that subsequently his claim was placed before the Eligibility Determination Committee for final approval but his claim was rejected on the ground of double claim against the same Jhuggi in spite of the fact that DDA had issued DS No. 00525 dated 21.12.2016 (Annexure-A) & Verification Slip dated 21.12.2016 (Annexure-B) in his favour and Tripartite Agreement dated 21.12.2016 (Annexure-C) was also executed and further Flat No. 51, Block-A-10, Pkt.-4, Second floor, Sector-G-7, Narela was allotted in his favour vide Allotment Letter (Annexure-E) and Possession Slip No. 351 dated 08.11.2017 (Annexure-F) along with inventories was issued and aggrieved by the same, the Appellant/Claimant has filed the Appeal No. 171 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-W, in support of his claim and prayed that DDA be directed to make allotment in his favour.

REJECTION OF REPRESENTATION BY EDC VIDE ORDER DATED 11.03.2020

16. Now we shall appraise the material placed on file to show as to how the EDC had proceeded to


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deal with the claim and more particularly as to whether it was swayed by irrelevant matter or it has determined the claim of the Appellant/ Claimant fairly & independently.

17. It is not disputed that the claim of the Appellant/ Claimant was placed before the Eligibility Determination Committee (hereinafter called EDC). It is pertinent to point out that the claim of the Appellant/ Claimant was rejected by EDC on 11.03.2020 and the Nodal Officer, Kathputli Colony, duly communicated its order bearing No. F/KPC (N-00151)13/Survey/LM/WZ/4064 dated 10.11.2021 to the present Appellant/Claimant and the Note of the EDC dated 11.03.2020 (Annexure-W) is reproduced for better understanding of the facts and the grounds on which the claim of the present Appellant/ Claimant was rejected, as under: -

EDC Note dated 11.03.2020 (Annexure-W)

1. *The case of the applicant/ claimant has been examined, it was observed that the applicant was shifted to transit camp, Anand parbat in drive which was conducted in Dec2016 to June 2017 against Jhuggi number. C-215/H-266.*
2. *As per available record applicant appeared on 21.12.2016 at site office of Kathputli Colony with demolition slip No. 00525 dated 21.12.2016 against Jhuggi number C-215/H-266 was issued on the basis of the documents by the order of Nodal officer(KPC) against fresh survey and applicant was directed to report to Asstt. Director (Survey) for completion of codal formalities i.e. submission of document, for verification of jhuggi/ demolition of Jhuggi and for execution of agreement etc but applicant never submitted the verification report regarding the said Jhuggi.*
3. *As per survey record of year 2010-2011 survey number 569 survey was conducted in the name of Bano w/o Chander. Videoe of survey number 569 was checked and examined that Jhuggi was seen signle story. Gound floor Jhuggi belongs to Bano was shifted to transit camp against these Jhuggi.*
4. *The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts to get the allotment merely on document as the applicant do not have separate jhuggi and he found residing with his father during survey of year 2010-2011 and his name was also appeared in the fimaly details of survey performa. As per policy guidelines claimant must have separate jhuggi in the cluster.*


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5. As per policy, two allotments in respect of one Jhuggi / room are not permissible as per policy guidelines issued by DDA.
6. The applicants / claimants file his claim against survey claiming allotment in respect of Jhuggi belongs to another person, two allotments are not permissible in respect of one room/jhuggi as per guidelines and her claim appears to be not a genuine one. Hence, the applicant/claimant does not fulfil the eligibility criteria. The applicant/claimant is found ineligible for alternative allotment as this case of double allotment."

18. As pointed out above in the Note of EDC dated 11.03.2020 (Annexure-W) it is mentioned that as per survey of 2010-11 and in the video clip prepared by the survey team the Appellant/ Claimant was found to be living with his mother Bano W/o Chander in the single storey Jhuggi bearing Survey No. 569 and regarding that DDA has made allotment in favour of Bano and further that the Appellant/ Claimant was not having separate Jhuggi but all these facts are contradictory to the real facts found on spot. On this aspect it is pertinent to point out that the facts given in the Note of EDC dated 11.03.2020 (Annexure-W) is contradictory to the survey records placed on file by DDA because the material placed on file shows that the Jhuggis of the Appellant/ Claimant and that of his mother Bano W/o Chander were different dwelling units because the Jhuggi of the Appellant/ Claimant was bearing Jhuggi No. C-215/H-266 bearing DDA No. 571 whereas the Jhuggi of his mother Bano W/o Chander was bearing Jhuggi No. C-215/H-266 bearing DDA No. 570 and both the Jhuggis were different dwelling units. We shall discuss these aspects in details by appraising the material placed on file in the Paras herein below.

19. DDA has furnished the survey records along with three video clip pertaining to the Jhuggi No. C-215/H-266. The video clips were played before the Appellant/ Claimant when his statement was recorded before us on 06.02.2024 wherein he has stated that the first video clip pertains to the Jhuggi No. C-215/H-266 bearing Survey No. 569 in which his mother Bano along with her son, Nazim, and daughters, Israno & Gudia, is seen and getting the survey conducted on Jhuggi No. C-215/H-266 bearing DDA No. 569 and the Jhuggi is clearly seen to be a single storey structure having roof made with asbestos sheet and her room & kitchen are also seen. Further, on the front wall of the Jhuggi "DDA No. 569" is clearly seen to have been written. The second video clip pertains to the Jhuggi No. C-215/H-266 bearing Survey No. 570 in which his brother Imran along with her wife Afsana & children are seen and getting the survey conducted on


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Jhuggi No. C-215/H-266 bearing DDA No. 570 and the Jhuggi is clearly seen to be a single storey structure having roof made with asbestos sheet and his room & kitchen are also seen. Further, on the front wall of the Jhuggi "DDA No. 570" is clearly seen to have been written. The third video clip pertains to the Jhuggi No. C-215/H-266 bearing Survey No. 571 in which the Appellant/Claimant Irfan is seen and getting the survey conducted on the Jhuggi No. C-215/H-266 bearing DDA No. 571 and the Jhuggi is clearly seen to be a single storey structure having roof made with wooden planks and also having wooden gate and his room & kitchen are also seen. Further, on the front wall of the Jhuggi "DDA No. 571" is clearly seen to have been written.

20. The Appellant/Claimant has placed on file photographs (Annexure-P to Annexure-R) in which the Appellant/Claimant and his family members are seen standing in front of the Jhuggi No. C-215/H-266 regarding which he is claiming allotment from DDA and the identity of the Jhuggi in all the photographs (Annexure-P To Annexure-R) has been established by the video clip prepared by the DDA Survey Team in which the same Jhuggi is seen and it establishes that the Appellant/Claimant along with his family was living in the Jhuggi No. C-215/H-266 bearing DDA No. 571.

21. The material placed on file shows that the family of the Appellant/Claimant was having four adjoining Jhuggis in Kathputli Colony. All the four Jhuggis were single storey structure and bearing the same number i.e. C-215/H-266 but all the four Jhuggis were having different Survey Numbers as under: -

(A) The Jhuggi of his mother Bano was single storey structure bearing **Jhuggi No. C-215/H-266 bearing DDA No. 569** and regarding that DDA has made allotment in favour of his mother Bano and she has shifted to the Transit Camp, Anand Parbat. **The first video clip** pertains to the Jhuggi No. C-215/H-266 bearing Survey No. 569 in which his mother Bano along with her son, Nazim, and daughters, Israno & Gudia, is seen and getting the survey conducted on Jhuggi No. C-215/H-266 bearing DDA No. 569 and the Jhuggi is clearly seen to be a single storey structure having roof made with asbestos sheet and her room & kitchen are also seen and further, on the front wall of the Jhuggi "DDA No. 569" is clearly seen to have been written.

(B) Further, the Jhuggi of his brother Imran was single storey structure bearing **Jhuggi No. C-215/H-266 bearing DDA No. 570** and regarding that DDA has made allotment in favour of


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his brother Imran and he along with his family has shifted to the Transit Camp, Anand Parbat. **The second video clip** pertains to the Jhuggi No. C-215/H-266 bearing Survey No. 570 in which his brother Imran along with her wife Afsana & children are seen and getting the survey conducted on Jhuggi No. C-215/H-266 bearing DDA No. 570 and the Jhuggi is clearly seen to be a single storey structure having roof made with asbestos sheet and his room & kitchen are also seen. Further, on the front wall of the Jhuggi "DDA No. 570" is clearly seen to have been written.

(C) **Further, the Jhuggi of his brother Latif** was single storey structure bearing **Jhuggi No. C-215/H-266 bearing new Survey Number** and regarding that DDA has made allotment in favour of his brother Latif and he along with his family has shifted to Narela. However, the video of Jhuggi of Latif is not available.

(D) **Further, the Jhuggi of the Appellant/ Claimant** was single storey structure bearing **Jhuggi No. C-215/H-266 bearing DDA No. 571** and regarding that DDA has made provisional allotment in his favour. **The third video clip** pertains to the Jhuggi No. C-215/H-266 bearing Survey No. 571 in which the Appellant/Claimant Irfan is seen and getting the survey conducted on the Jhuggi No. C-215/H-266 bearing DDA No. 571 and the Jhuggi is clearly seen to be a single storey structure having roof made with wooden planks and also having wooden gate and his room & kitchen are also seen. Further, on the front wall of the Jhuggi "DDA No. 571" is clearly seen to have been written.

22. The bare perusal of the Note dated 11.03.2020 (Annexure-W) also shows that the video clip prepared by the survey team of the Jhuggi No. C-215/H-266 bearing DDA No. 571 of the Appellant/ Claimant in which he is clearly seen and getting the survey conducted of his separate single storey Jhuggi No. C-215/H-266 bearing DDA No. 571 was not considered at all by the EDC. This is the most material document but despite that it was completely ignored. Thus all the relevant materials were neither placed before the EDC nor considered by it. The survey records placed on file by DDA as well as the video clips prepared by the survey team of DDA shows that the Jhuggis of the Appellant/ Claimant and that of his mother Bano W/o Chander were different dwelling units because the Jhuggi of the Appellant/ Claimant was bearing Jhuggi No. C-215/H-266 bearing DDA No. 571 whereas the Jhuggi of his mother Bano W/o Chander was bearing Jhuggi No. C-215/H-266 bearing DDA No. 569 but these facts were totally ignored by the EDC and accordingly its findings that the Appellant/ Claimant has claimed alternative allotment


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against the Jhuggi No. C-215/H-266 bearing DDA No. 569 of his mother Bano are wrong & contrary to the actual facts and accordingly is not sustainable in the eyes of law.

23. There is nothing to disbelieve the statement of the Appellant/Claimant, which has been duly corroborated by the survey records prepared by the survey team of DDA to the effect that he along with his family was living separately & independently in single storey Jhuggi No. C-215/H-266 bearing DDA No. 571. Accordingly, we have no hesitation in holding that the Appellant/Claimant was having a separate dwelling unit bearing Jhuggi No. C-215/H-266 bearing DDA No. 571 and it was a single storey structure and the Appellant/ Claimant was using the said Jhuggi for residential purposes.
24. 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 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 the single storey Jhuggi No. C-215/H-266 bearing DDA No. 571 as per the policy guidelines issued by DDA.
25. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-W, in support of his claim and prayed that DDA be directed to make allotment in his favour against the single storey Jhuggi No. C-215/H-266 bearing DDA No. 571.
26. 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 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


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of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School.”

27. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMENTS OF DOCUMENTS

28. As per Clause 1 (6) Part-B 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 in Clause 2. 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 one of the documents out of list of 12 documents.

29. Thus the bare perusal of the Policy shows that for claiming allotment against the **ground floor** the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff 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 and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMENTS OF DOCUMENTS

30. As already pointed out above, condition contained in Clause 1 (10) of Part-B of DDA policy runs as under:

“10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills


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all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

31. Thus Clause 1 (10) of Part-B 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. Therefore, the dweller, who is not having ration card, will not be eligible for allotment even if he possesses any one of the documents out of list of 12 documents.
32. Thus the bare perusal of the Policy shows that for claiming allotment against the first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff 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 and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against the upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

33. The bare perusal of the Policy shows that different criterion has been provided for the JJ dwellers claiming alternative allotment against the ground & first floors in the DDA policy because the dweller, who is claiming allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming allotment against the upper floor, to have a ration card issued before the cutoff date of 01.01.2015. Dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor so on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. But both are required to be treated on parity irrespective of that whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

34. It is not out of context to point out that this Appellate Authority had decided the Appeals


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pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the point of ration card was not discussed. Therefore, this Appellate Authority changed its view by taking a conservative approach on the requirement of ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and have decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

35. Now the matter has been settled by way of judicial pronouncement as the legality of requirement of a Ration Card as a mandatory document for the dwellers claiming allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the Hon'ble High Court of Delhi in the case of "**Mohammad Hakam and Another versus Delhi Development Authority**" in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022".
36. The facts of the Mohammad Hakim's case (supra) are that the claim of Petitioner No. 1 (before the Hon'ble High Court) was rejected by the EDC and aggrieved by the same he had filed Appeal No. 61 of 2017/04/2017 before this very Appellate Authority and his appeal was allowed by this Appellate Authority vide order dated 30.01.2019 thereby holding that he fulfills the eligibility criteria as per the guidelines issued by DDA, however, the EDC has wrongly and illegally rejected his claim and accordingly DDA was directed to make allotment in his favour with respect to Jhuggi No. E-278, Kathputli Colony. But the order of the Appellate Authority dated 30.01.2019 was set aside by the Administrative Department of DDA and aggrieved by the same Petitioner No. 1 has filed Writ Petition bearing No. W.P. (C) 1585/2022 before the Hon'ble High Court of Delhi. Similarly, the claim of Petitioner No. 2 (before the Hon'ble High Court) was rejected by the EDC and aggrieved by the same he had filed Appeal No. 40 of 2017 before this very Appellate Authority and his appeal was allowed by this Appellate Authority vide order dated 17.08.2018


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thereby holding that he fulfills the eligibility criteria as per the guidelines issued by DDA because it was held that the applicant had applied for issuing separate ration card but the concerned authority had refused to issue a separate ration card because of policy of the concerned Food Department and not due to any default or inaction or lapse on his part and thus he had explained the reasons of non issuance of separation card by the Food & Civil Supply Department in his individual name pertaining to the first floor of the Jhuggi in question even though he was living separately & independently, however, the EDC has wrongly and illegally rejected his claim and accordingly DDA was directed to make allotment in his favour with respect to Jhuggi No. E-81, Kathputli Colony. But the order of the Appellate Authority dated 17.08.2018 was set aside by the Administrative Department of DDA and aggrieved by the same Petitioner No. 2 has filed Writ Petition bearing No. W.P. (C) 1585/2022 before the Hon'ble High Court of Delhi. Similarly, the claim of Petitioner No. 3 (before the Hon'ble High Court) was rejected by the EDC and aggrieved by the same he had filed Appeal No. 01 of 2017 before this very Appellate Authority and his appeal was allowed by this Appellate Authority vide order dated 19.07.2018 thereby holding that he fulfills the eligibility criteria as per the guidelines issued by DDA because it was held that the applicant had explained the reasons of non issuance of separation card by the Food & Civil Supply Department in his individual name pertaining to the first floor of the Jhuggi in question even though he was living separately & independently, however, the EDC has wrongly and illegally rejected his claim and accordingly DDA was directed to make allotment in his favour with respect to Jhuggi No. B-643, Kathputli Colony. But the order of the Appellate Authority dated 19.07.2018 was set aside by the Administrative Department of DDA and aggrieved by the same Petitioner No. 3 has filed Writ Petition bearing No. W.P. (C) 2514/2022 before the Hon'ble High Court of Delhi. Both the Writ Petitions bearing W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022" were consolidated. However, pursuant to the filing of the writ petition the case of the petitioner No. 1 was re-examined and reviewed by the competent authority of DDA and it was found that his case was inadvertently recommended for 'non-acceptance' by the competent authority due to mixing of his records with other 62 cases, therefore, DDA rectified its mistake by withdrawing the impugned letter of rejection and granting the relief as sought by him in the writ petition. But the relief claimed by the respondent No. 2 & 3 was contested on merit and was decided on 29.02.2023 by *the Hon'ble High Court of Delhi whereby the decisions of the Appellate*


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Authority was upheld thereby setting aside the impugned orders passed by the Administrative Department/Nodal Officer of DDA wherein it has been held as under: -

"81. In this backdrop, this Court deems it apposite to discuss the concept of Ration card and the aim of issuing the same.

82. The term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System.

83. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder.

84. Moreover, this Court shall now peruse the Para 4(6) of Gazette notification No. G.S.R. 104(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution which disallows the use of ration card as a document of identity or proof of residence. The relevant extract has been reproduced herein below:

"4. Ration Cards.-

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(6) Ration card shall not be used as a document of identity or proof of residence."

85. Hence, ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism setup by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card.

86. The aim of the ration card is to ensure that the citizens of this country are provided foodgrains at a reasonable price. Hence, it is not reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System.

87. Therefore, the respondent has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed gazette notification, definition of ration card as well as the intent behind issuance of the same.

88. Furthermore, in the instant petition the petitioners contended that they have applied for Ration Cards, however, they have not been issued the same by the Competent Authority. In this regard, the Court shall discuss the order of the Coordinate Bench of this Court in writ petition bearing no. **Shanti Devi vs Union of India**¹ wherein the petitioner applied for the ration card in the year 2013 (8 years before), however, she was not issued


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the same for the last 8 years, despite giving several representations. The afore discussed order has been reproduced herein below:

"1. The petitioner, who claims to be falling within the category of persons Below Poverty Line (BPL)" has approached this Court with the grievance that despite repeated representations made by her, she has not been issued a ration card for the last eight years.

2. On the last date, Mr. Narayan, learned counsel for respondent nos.2 to 4 was granted time to obtain instructions. Today, he submits that no ration card could be issued to the petitioner as the limit for issuance of 72 lakh ration cards set by respondent no. 1, based on the Census of 2011, already stands exhausted and therefore, the respondents nos.2 to 4 cannot be faulted for not having issued a ration card to the petitioner."

89. In view of the aforesaid order, it is pertinent to note that ration cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limit for issuance of Ration Card has already been exhausted, therefore, even if a person is eligible to be issued Ration Card, he/ she shall not be issued the same.

90. Hence, in light of the aforesaid submissions by the learned counsel for the Delhi Government in the aforesaid writ petition, this Court is of the considered view that the contention of the petitioners in the instant batch of petitions regarding non- issuance of Ration Card holds water.

91. Keeping in mind the aforesaid circumstances, this Court is of the view that mere non-issuance of a Ration Card cannot be a ground for denial of the alternative allotment to the petitioners. The respondent should have introspected into the issue and accordingly, should have taken step to alleviate issues faced by the poor dwellers of the Kathputali Colony.

92. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Moreover, it is responsibility of the respondent that they should have introspected into the intent and motive behind issuing of the Ration Card which is distribution of food through Public Distribution System.

93. Therefore, the requirement of a Ration Card as mandatory document to be produced before the respondent as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. The respondent should have exercised due caution and care before adhering to such a requirement. It should take a fair and realistic view of the circumstances before it.

94. The respondent should introspect on the fact that how much harassment and pain must have been caused to the petitioners due to such arbitrary requirements. The afore


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discussed actions of the respondent is in clear violation of the petitioners' right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of this Court in the judgment of **Udal v. Delhi Urban Shelter Improvement Board and Ors² 2017 SCC OnLine Del 9715** as follows:

"15. It is trite that the right to housing is an essential part of Right to Life and a fundamental right ensured by Article 21 of the Constitution of India. It has also been held that the right to life is not right to merely an animal existence but an entitlement to reasonable accommodation (Ref.: (1996) 2 SCC 549, *Chameli Singh v. State of U.P.* and (1990) 1 SCC 520, *Shantistar Builders v. Narayan Khimalal Totame*). The contours of this right were further expanded by a pronouncement of the Supreme Court reported at (1997) 11 SCC 121, *Ahmadabad Municipal Corporation v. Nawab Khan Gulab Khan* wherein the court held that when slum dwellers have been residing at a place for some time, it became the duty of the government to make schemes for housing these jhuggi dwellers. Relying on the principles laid down in these judgments, this court in 168 (2010) DLT 298, *Sudama Singh v. Government of Delhi* has relied upon the provisions of the Delhi Master Plan and emphasized in-situ rehabilitation of the slum dwellers.

16. Judicial notice can be taken of the fact that the National Capital Territory of Delhi attracts people, especially poor people, from all over the country who come to the city in search of work and must reside reasonably near to their place of work. In recognition of the responsibility to house the poor in a permanent humane manner, the Government of NCT of Delhi announced "Delhi Slum and JJ Rehabilitation and Relocation Policy, 2015". Under Clause 2(a), Delhi Urban Shelter Improvement Board („DUSIB" hereafter) was appointed as the nodal agency for implementation of the policy."

95. Accordingly, this Court is also of the view that the petitioners' right to housing shall be kept at the highest pedestal. It is one of the safeguards provided in our Constitution and the legacy has been carried forward by the writ Court by way of various judicial precedents which reiterates the same.

96. In the instant petitions, the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over quasi-judicial matters already adjudicated upon by the appellate authority. This aforesaid act of the Nodal officer of the respondent underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petition are set-aside.

97. The decision of the appellate authority is upheld which held that the petitioners are in possession of other documents as stipulated by Clause 2 of the Policy as well as the


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aforesaid documents are issued before the cut-off date, hence, the petitioners are entitled for an alternative dwelling unit and their claims shall be admitted by the respondent.

98. Accordingly, this Court holds that the impugned orders passed by the Nodal Officer of the respondent are liable to be set-aside.

CONCLUSION

99. The afore-discussed actions of the respondent, ostensibly operating within the framework of legality, struck at the heart of justice, undermining the very principles upon which the judicial system purportedly stands. Subsequent to the petitioners' challenge of the initial rejection, the issuance of a second letter of rejection by the respondent compounded the petitioners' anguish. This second rejection purportedly cited new reasons for denial, yet failed to withstand scrutiny in light of legal precedents previously established by the writ Courts and of particular note was the justification provided by the respondent for the second rejection, namely, the purported non-filing of a ration card by the petitioner. Such a justification, given the petitioner's provision of alternative legal proofs of identity consistent with statutory requirements and prior judicial interpretation, underscored the arbitrary nature of the respondent's actions.

100. The petitioner's distress, exacerbated by the respondent's actions, exemplified the inherent flaws within the legal system, which too often favours the powerful over the marginalized. The respondent's actions, shielded by the veneer of legality, served to perpetuate systemic injustices, leaving the petitioners vulnerable.

101. The Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the jhuggis there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the jhuggis especially in the light of the paragraph no. 4(6) of Gazette Notification No. G.S.R. 104(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution which disallows the use of ration card as a document of identity or proof of residence. Moreover, the intent of issuance of Ration Card is distribution of essential food items by Public Distribution System and hence, it does not intent on being used as an identity proof or an address proof.

102. Hence, the Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 (PART-B) has wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card.

103. This Court is of the view that the respondent shall consider other documents issued before the cut-off date i.e., 1st January 2015 as enlisted in Clause 2 of The Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 (PART-B) which are as follows: Passport, Electricity bill, Driving License, Identity Card/ Smart Card with photograph issued by

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State/ Central Government and/ or its Autonomous Bodies/ Agencies like PSU/ Local Bodies (except EPIC), Pass book issued by Public Sector Banks/ Post Office with photograph, SC/ST/OBC Certificate issued by the Competent Authority Pension document with photograph such as Ex-serviceman's Pension Book, Pension Payment Order, Ex-serviceman widow/dependent certificate, old age pension order or widow pension order, Freedom Fighter Identity Card with photograph, Certificate of physically handicapped with photograph issued by the Competent Authority, Health Insurance Scheme Smart card with photograph (Ministry of Labour scheme, Identity card with photograph issued in the name of the descendants) of the slum dweller from a Government school or Certificate with photograph issued by the Principal of a Government School mentioning therein that the descendants) of the JJ dweller is/was the student of the school.

104. In view of the aforesaid discussion, the impugned orders dated 3rd July 2020 in both writ petitions are quashed by this Court by way of exercising its jurisdiction vested under Article 226 of the Constitution of India. Accordingly, the instant petitions are allowed.

105. This Court directs the respondent to allocate an alternative dwelling unit in favor of the petitioners subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of The Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 (PART-B) issued before the cut-off i.e., 1st January 2015, the deposit of amount as stipulated by the respondent as well as any other requirement as mandated by the respondent.

106. Accordingly, the instant petitions alongwith pending applications, if any, are disposed of.

107. The judgment to be uploaded on the website forthwith."

37. The Hon'ble High Court had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) OF Gazette Notification No. G.S.R. 104(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

38. It is further held that ration card is issued exclusively for obtaining essential commodities from


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shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

39. It was also pointed out that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separation card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.
40. It is further held that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side


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thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The decision of the Appellate Authority were upheld, which held that the petitioners were in possession of other documents as stipulated by Clause 2 of the Policy as well as the aforesaid documents are issued before the cut-off date, hence, the petitioners were held entitled for an alternative dwelling unit and their claims shall be admitted by the respondent/DDA and accordingly, the impugned orders passed by the Nodal Officer of the DDA were set aside.

41. Therefore, the facts of the present appeal are squarely covered by the facts of the Mohammad Hakim's case (supra) wherein the Hon'ble High Court of Delhi has held that the DDA policy as per Clause (1) (x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggis there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis and it has been held that the DDA policy, 2015 (PART-B) has wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered.
42. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor. In view of our discussion above, the bare perusal of the DDA Policy 2015 in the light of judgment in Mohammad Hakim's case (supra) shows that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & 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 and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA


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policy, 2015.

GIST OF THE POLICY

43. In the light of our discussion above, we shall now appraise the material placed on file by 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 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 possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the single storey Jhuggi No. C-215/H-266 bearing DDA No. 571 as per the policy guidelines issued by DDA.
44. We have already pointed out that the Appellant/ Claimant has sought alternate allotment under insitu Slum Redevelopment policy against the single storey Jhuggi No. C-215/H-266 bearing DDA No. 571, Kathputli Colony, as per the policy guidelines issued by DDA. The survey was conducted in respect of the said Jhuggi and the documents, i.e., Voter ID Card & Aadhar Card etc. relating to the Appellant/ Claimant & her family members, which were furnished by the Appellant/ Claimant, were also got verified and all the materials including video clips were placed before the Eligibility Determination Committee but it has rejected the claim of the present Appellant/ Claimant and the same was communicated to the Appellant/Claimant by the Nodal Officer, KPC, vide Rejection Order dated 10.11.2021 whereby the reasons for rejection is mentioned to be **"Double claim against one Jhuggi"**. This shows that the claim of the Appellant/Claimant was rejected on the sole ground that this was found to be the case was of double claim against one Jhuggi, thereby, showing that DDA has not disputed about the existence of Jhuggi of the single storey Jhuggi No. C-215/H-266 bearing DDA No. 571 of the Appellant/Claimant on the cutoff date of 01.01.2015 and using the said Jhuggi for residential purposes and further he was also having all other requisite documents and making compliance of all other mandatory conditions except that this was allegedly case of double claim against one Jhuggi but as per our discussion above it has not been found by us to be the case of double claim against one Jhuggi but it has been found that the Appellant/ Claimant was having a separate dwelling unit bearing Jhuggi No. C-215/H-266 bearing DDA No. 571 and it was a single storey structure and the Appellant/ Claimant was using the said Jhuggi for residential purposes. Therefore, in the light of our discussion above, we shall now appraise the material placed on file to determine as to whether


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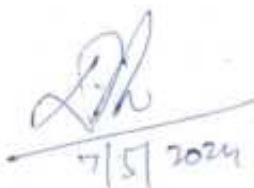

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the Appellant/ Claimant was having all the requisite documents, on the cutoff date of 01.01.2015.

45. The Appellant/Claimant has tendered his Voter ID Card bearing No. SMM 2225761 (Annexure-G), Aadhar Card (Annexure-H), PAN Card (Annexure-I), Voter List of the year 2012 (Annexure-T), Voter List of the year 2013 (Annexure-U) and Voter List of the year 2015 (Annexure-V) in support of his claim.
46. It is pointed out that the Appellant/Claimant has tendered his Voter ID Card bearing number SMM 2225761 (Annexure-G) and it has been issued on 07.01.2011, much prior to the cutoff date of 01.01.2015. The Appellant/Claimant has tendered his Aadhar Card (Annexure-H) which is bearing No. 8572 8182 4770. Further, his name appears at Sl. No. 985 in the Voter List of the year 2012 (Annexure-T), at Sl. No. 985 in the Voter List of the year 2013 (Annexure-U) and at Sl. No. 969 in the Voter List of the year 2015 (Annexure-V). It is also pointed out that in the Voter Lists (Annexure-T to Annexure-V) the number of the Voter ID Card of the Appellant/Claimant is mentioned to be bearing No. SMM 2225761 and further in all the above-mentioned documents ((Annexure-G, Annexure-H & Annexure-T to Annexure-V) the address of the Appellant/Claimant is mentioned to be Jhuggi No. C-215/H-266 regarding which he has been claiming allotment from DDA. Therefore, the material placed on file shows that the Appellant/Claimant was having Aadhar Card and also a valid Voter ID Card on the cutoff date of 01.01.2015 and further his name also appears in the voter list of the year's 2012, 2013 and 2015, therefore, the Appellant/Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.
47. It is pointed out that in **Udal v. Delhi Urban Shelter Improvement Board and Ors² 2017 SCC OnLine Del 9715** the Hon'ble High Court of Delhi has found that the petitioners have produced the documents, including the National Food Security Card, Ration Card, Gas/Oil Bill, Electricity Bill, BSES Meter Change Report, School Leaving Certificates, School Progress Report of Children, Report Card of Children, Aadhar Cards, Driving Licences, Passbooks, PAN Card, Death Certificate of the Spouse of one of the parties, LIC Policy but they could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy. The Hon'ble High court held as under: -

"33.Therefore, even though these petitioners could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy,


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however, if an holistic view is undertaken of the documentation as produced, it would amply establish the residence and existence of these persons at the Rajiv Camp for the periods from 1998 till 2016."

"38. Mr. Parvinder Chauhan, Id. Standing Counsel for respondent no.1 has staunchly contended that the requirement of Clause 1(iii) of Part-B of R& R Policy to the effect that the name of the person must feature in the electoral roll for any of the prescribed five years, is mandatory and the failure for the name to appear in such electoral roll must be fatal so far as consideration for allotment of alternative flat for rehabilitation under the R&R Policy is concerned. In the given facts and circumstances, we are unfortunately unable to agree with this submission. The records placed by these persons include National Food Security Cards, Ration Cards, Oil/Gas Bill, SC/ST Certificates, Electricity Bill, LIC Policies, Gas Connection Records and Bills, Driving Licences, Passbooks, Birth Certificate of Children as well as records of School Admission of Children, their Progress Report Cards, all of which show their continued existence on the spot. A realistic view has to be taken in this regard. We find that the persons who were found ineligible were in possession of public identification including Voter ID - cards. The failure of the names of such persons to feature in the electoral roll could be for any number of reasons. The same could happen, if the person was not at home at the time the Booth Level Officer visited Jhuggi of the person concerned. This could be on account of the occupation of the person or for the person and adults of the family having left the Jhuggi for work. Obviously, the Booth Level Officer or any persons conducting the survey would not have met the adult members of the family. There would thus not be any adult members of the family to give the information for names to be included in the electoral rolls."

"40. We find that as per Clause 2 of PART - B of the R&R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents. In the above cases, the Jhuggi Jhopri dwellers have produced multiple records ranging to periods in the late 1990s till date. In this view of the matter, the persons detailed in paras 37 and 38 above are clearly entitled to the benefit of the policy. We are of the view that the ineligibility letter dated 22nd December, 2016 by the respondents have been issued to these persons because of a disjoint reading of Clause 1(iii) and Clause 2 of PART - B of the policy. The same ought to be read together and a conclusion has to be drawn


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on a holistic consideration of the documents which are required to be filed detailed at Clause 1(iii) and Clause 2 of Part-B of the R&R Policy, 2015."

48. Therefore, the present appeal is squarely covered by the facts of Udal's case (supra) decided by the Hon'ble High Court of Delhi wherein it has been held that as per Clause 2 of PART-B of the R & R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents and we cannot give a disjoint reading of Clause 1 (iii) and Clause 2 of PART – B of the policy but the same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1 (iii) and Clause 2 of PART-B of the R & R Policy, 2015.
49. On this aspect it is pertinent to point out that when the Jhuggi of the Appellant/Claimant is found to exist on the cutoff date of 01.01.2015 and he is also found to be having a Aadhar Card and also a valid Voter ID Card on the cutoff date of 01.01.2015 and his name also appears in the voter list of the year's 2012, 2013 and 2015 and also he possesses any one document out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 then his claim can not be rejected by taking hyper technical view especially when he was having a valid Voter ID Card dated 07.01.2011 (Annexure-G) on the cutoff date of 01.01.2015 and further his name also appears in the voter list of the year 2012 (Annexure-T), in the Voter List of the year 2013 (Annexure-U) and in the Voter List of the year 2015 (Annexure-V) and he as well his family are having documents to show that they have been living in the said Jhuggi much prior to the cutoff date of 01.01.2015.
50. Now we shall appraise the material placed on file to determine as to whether there are documents placed on file to shows that the Appellant/Claimant along with his family was living in Jhuggi No. C-215/H-266 since long and more particularly on the cutoff date of 01.01.2015 and whether they have got the documents issued in their favour prior to the cutoff date of 01.01.2015 to lent support to the claim put forward by the Appellant/Claimant.
51. The Appellant/Claimant has tendered Voter ID Card No. SMM 2567717 (Annexure-J), Aadhar Card (Annexure-K), PAN Card (Annexure-L) of his wife Suhana, Aadhar Cards (Annexure-M & Annexure-S) of his children Sunaina & Sufiyan, Electricity Bill (Annexure-N) and No Dues Certificate (Annexure-O) in support of his claim.
52. It is pointed out that the Voter ID Card No. SMM 2567717 (Annexure-J) of his wife Suhana has


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been issued on 10.09.2013, much prior to the cutoff date of 01.01.2015. The Appellant/Claimant has tendered the Aadhar Card (Annexure-K) of his wife Suhana bearing No. 8311 3593 2533. The Appellant/Claimant has tendered the Aadhar Card (Annexure-M & Annexure-S) of his children Sunaina & Sufiyan. The Electricity Bill (Annexure-N) shows that the electricity connection has been taken by the Appellant/Claimant on 19.05.2012, much prior to the cutoff date of 01.01.2015 on the address of the Jhuggi No. C-215/H-266 regarding which he is claiming allotment from DDA. The No Dues Certificate (Annexure-O) has been issued by Tata Power-DDL dated 07.02.2019 in favour of the Appellant/Claimant thereby showing that the electricity connection was taken by the Appellant/Claimant on the address of the Jhuggi No. C-215/H-266 regarding which he is claiming allotment from DDA. It is also pointed out that all the above mentioned documents have been issued on the address of the Jhuggi No. C-215/H-266 regarding which the Appellant/Claimant is claiming allotment from DDA. These documents also corroborate that the Appellant/Claimant along with his family members was living in the single storey Jhuggi No. C-215/H-266 bearing DDA No. 571, Kathputli Colony since long and much prior to the cutoff date of 01.01.2015.

53. This shows that the Appellant/Claimant has tendered Voter ID Cards & Aadhar Cards belonging to him and family members, as well as the Electoral Rolls, No Dues Certificate & Electricity Bill and all these documents have been issued much prior to the cutoff date of 01.01.2015 and it accordingly amply establishes that he as well as his family members have been living in the single storey Jhuggi No. C-215/H-266 bearing DDA No. 571, Kathputli Colony, since long and more particularly on the cutoff date of 01.01.2015 and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

54. As per our discussion above, the Appellant/Claimant has placed cogent materials on file to show that he along with his family was living in the single storey Jhuggi No. C-215/H-266 bearing DDA No. 571, Kathputli Colony since long and more particularly on the cutoff date of 01.01.2015 and that is why the Appellant/Claimant had got his Voter ID Card (Annexure-G) & Aadhar Card (Annexure-H) issued on the address of Jhuggi No. C-215/H-266 and further the Voter ID Card (Annexure-G) has been issued much prior to the cutoff date of 01.01.2015 and furthermore, the Voter ID Card (Annexure-J) of his wife Suhana has also been issued much prior to the cutoff date of 01.01.2015 and further the Voter ID Card (Annexure-J) & Aadhar Card (Annexure-K) of his wife Suhana have been issued on the address of Jhuggi No. C-215/H-266. Furthermore, the


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Aadhar Card (Annexure-M) of his daughter Sunaina has also been issued on the address of Jhuggi No. C-215/H-266. The Electricity Bill (Annexure-N) and No Dues Certificate (Annexure-O) shows that the electricity connection has been taken by the Appellant/Claimant on 19.05.2012, much prior to the cutoff date of 01.01.2015 on the address of the Jhuggi No. C-215/H-266 regarding which he is claiming allotment from DDA. This gives credence to the claim put forward by the Appellant/Claimant that he along with his family members was living separately & independently in the single storey Jhuggi No. C-215/H-266 bearing DDA No. 571, Kathputli Colony since long and more particularly on the cutoff date of 01.01.2015.

55. The fact can not be lost that the Appellant/Claimant is having a valid Voter ID Card No. SMM 2225761 dated 07.01.2011 (Annexure-G), which has been issued much prior to the cutoff date of 01.01.2015 and it has been issued on the address of Jhuggi No. C-215/H-266 regarding which he has been claiming allotment from DDA. The Aadhar Card (Annexure-H) of the Appellant/Claimant has also been issued on the address of Jhuggi No. C-215/H-266 regarding which the Appellant/Claimant has been claiming allotment from DDA. Further, the name of the Appellant/Claimant appears at Sl. No. 985 in the Voter List of the year 2012 (Annexure-T), at Sl. No. 985 in the Voter List of the year 2013 (Annexure-U) & at Sl. No. 969 in the Voter List of the year 2015 (Annexure-V) and in all the Voter Lists the number of his Voter ID Card is mentioned to be SMM 2225761 and the address is mentioned to be Jhuggi No. C-215/H-266 regarding which he has been claiming allotment from DDA. Furthermore, the Voter ID Card No. SMM 2567717 dated 10.09.2013 (Annexure-J) of his wife Suhana has been issued much prior to the cutoff date of 01.01.2015 and further her Voter ID Card (Annexure-J) & Aadhar Card (Annexure-K) have been issued on the address of Jhuggi No. C-215/H-266 regarding which he has been claiming allotment from DDA. In addition to that the Aadhar Card (Annexure-M) pertains to the daughter of the Appellant/Claimant and it has been issued on the address of Jhuggi No C-215/H-266 regarding which the Appellant/Claimant has been claiming allotment from DDA. This accordingly corroborates the statement of the Appellant/Claimant that he along with his family has been living in the single storey Jhuggi No. C-215/H-266 bearing DDA No. 571 much prior to the cutoff date of 01.01.2015. Furthermore, as per our discussion above, the statement of the Appellant/Claimant has been fully supported by survey records prepared by the survey team of DDA to show that the Jhuggi No. C-215/H-266, Kathputli Colony of the Appellant/Claimant was a single storey structure and it was a separate dwelling unit and the Appellant/Claimant along


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with his family was living in the said Jhuggi on the cutoff date of 01.01.2015 and using the same for residential purposes. The material placed on file shows that the EDC has wrongly rejected the claim of the Appellant/Claimant on the sole ground that he was not having separate Jhuggi but he was living with his mother Bano in her Jhuggi bearing survey No. 569 in spite of the fact that the material placed on file shows that the Appellant/Claimant was living separately & independently in the single storey Jhuggi No. C-215/H-266 bearing DDA No. 571 much prior to the cutoff date of 01.01.2015 and he has not claimed allotment against the Jhuggi No. C-215/H-266 bearing DDA No. 569 of his mother but in facts both the Jhuggis of his mother Bano and that of the present Appellant/ Claimant are separate dwelling units. Furthermore, the fact cannot be lost sight that in view of Mohammad Hakim's case (supra) any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the DDA policy has to be considered. It is pointed out that the documents placed on file further corroborates the claim of the Appellant/ Claimant that he as well his family members were having all the requisite documents and he possess one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and accordingly the Appellant/ Claimant is entitled to claim allotment from DDA as per the policy guidelines issued by DDA. But the Eligibility Determination Committee without any basis had come to the wrong conclusion that the Appellant/ Claimant is not eligible to get alternative allotment on the sole ground that he was not having separate Jhuggi but he was living with his mother Bano in her Jhuggi bearing survey No. 569 and accordingly, the same is not sustainable in the eyes of law. It is pointed out that the documents placed on file further corroborates the claim of the Appellant/ Claimant that he along with his family members was living separately & independently in the single storey Jhuggi No. C-215/H-266 bearing DDA No. 571, Kathputli Colony since long and more particularly on the cutoff date of 01.01.2015 and further he as well his family members were having all the requisite documents as per the policy guidelines issued by DDA, therefore, the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

56. The Appellant/ Claimant has contended that his claim was ultimately rejected by the Eligibility Determination Committee vide order dated 10.11.2021 in spite of the fact that much earlier to that DDA has made provisional allotment by issuing the DS No. 00525 dated 21.12.2016 (Annexure-A) & Verification Slip dated 21.12.2016 (Annexure-B) in his favour and Tripartite


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Agreement dated 21.12.2016 (Annexure-C) was also executed and thereafter DDA has allotted Flat No. 51, Block-A-10, Pkt.-4, Second floor, Sector-G-7, Narela vide Allotment Letter (Annexure-E) and had also issued Possession Slip No. 351 dated 08.11.2017 (Annexure-F) along with inventories in his favour but these facts were not duly considered by EDC. Accordingly, he has come before us thereby challenging the order of rejection dated 10.11.2021.

57. It is not disputed that DDA has made provisional allotment in favour of the present Appellant/ Claimant and had issued the DS No. 00525 dated 21.12.2016 (Annexure-A) & Verification Slip dated 21.12.2016 (Annexure-B) in his favour and Tripartite Agreement dated 21.12.2016 (Annexure-C) was also executed and thereafter DDA has allotted Flat No. 51, Block-A-10, Pkt.-4, Second floor, Sector-G-7, Narela vide Allotment Letter (Annexure-E) and had also issued Possession Slip No. 351 dated 08.11.2017 (Annexure-F) along with inventories in his favour whereas his claim was finally rejected by the EDC on 10.11.2021. Now we shall consider as to what is the legal effect of the issuance of the DS No. 00525 dated 21.12.2016 (Annexure-A) & Verification Slip dated 21.12.2016 (Annexure-B) and execution of Tripartite Agreement dated 21.12.2016 (Annexure-C) and allotment of Flat No. 51, Block-A-10, Pkt.-4, Second floor, Sector-G-7, Narela vide Allotment Letter (Annexure-E) and issuance of Possession Slip No. 351 dated 08.11.2017 (Annexure-F) along with inventories in his favour and whether any right of allotment was created in favour of the Appellant/ Claimant merely by issuing DS etc. by DDA in his favour.
58. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly according to the merit of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey of 2010-2011 and of July 2017 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.
59. Now coming to the fact of the present case it is pertinent to point out that the bare reading of the Relocation-cum-Allotment Slip (DS) No. 00525 dated 21.12.2016 placed on file shows that the issuance of the DS No. 00525 dated 21.12.2016 (Annexure-A) & Verification Slip dated 21.12.2016 (Annexure-B) and execution of Tripartite Agreement dated 21.12.2016 (Annexure-


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C) and allotment of Flat No. 51, Block-A-10, Pkt.-4, Second floor, Sector-G-7, Narela vide Allotment Letter (Annexure-E) and issuance of Possession Slip No. 351 dated 08.11.2017 (Annexure-F) along with inventories in his favour was subject to fulfillment of terms and conditions of guidelines issued by DDA and this was subject to final scrutiny of eligibility of the Appellant/ Claimant by the Eligibility Determination Committee (EDC) as per the policy guidelines issued by DDA. Furthermore, The Appellant/ Claimant had also submitted an Affidavit dated 21.12.2016 (Annexure-D) thereby giving an undertaking that if any fact/document is/are found to be false/fake, then his provisional allotment would be cancelled. Thus there is no doubt that DDA has made provisional allotment by issuance of the DS No. 00525 dated 21.12.2016 (Annexure-A) & Verification Slip dated 21.12.2016 (Annexure-B) in his favour and execution of Tripartite Agreement dated 21.12.2016 (Annexure-C) and thereafter allotment of Flat No. 51, Block-A-10, Pkt.-4, Second floor, Sector-G-7, Narela vide Allotment Letter (Annexure-E) and issuance of Possession Slip No. 351 dated 08.11.2017 (Annexure-F) along with inventories in his favour and this was subject to final scrutiny of eligibility of the Appellant/ Claimant by the Eligibility Determination Committee as per the policy guidelines issued by DDA and right of allotment was created in favour of the Appellant/ Claimant by issuing DS etc. but EDC has wrongly rejected the claim of the Appellant/ Claimant inspite of the fact that he along with his family members was living separately & independently in the single storey Jhuggi No. C-215/H-266 bearing DDA No. 571, Kathputli Colony since long and more particularly on the cutoff date of 01.01.2015 and further he was having all the requisite documents and fulfills the eligibility criteria as per the guidelines issued by DDA in view of Mohammad Hakim's case (supra).

60. As already pointed out the statement of the Appellant/Claimant has been corroborated by the survey records and also by the video clip prepared by the survey team of DDA and accordingly, we have no hesitation in holding that the single storey Jhuggi No. C-215/H-266 bearing DDA No. 571, Kathputli Colony was a pucca & an old construction and it was very much in existence much prior to the cutoff date of 01.01.2015 and the present Appellant/ Claimant along with his family was living separately & independently in the said Jhuggi on the cutoff date of 01.01.2015 and using the said Jhuggi for residential purposes. It is pertinent to point out that his claim was rejected wrongly by the EDC on the ground that he was not having separate Jhuggi but he was living with his mother Bano in her Jhuggi bearing survey No. 569 in spite of the fact that the


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material placed on file shows that the Appellant/Claimant was living separately & independently in the single storey Jhuggi No. C-215/H-266 bearing DDA No. 571 much prior to the cutoff date of 01.01.2015 and he has not claimed allotment against the Jhuggi No. C-215/H-266 bearing DDA No. 569 of his mother Bano but in facts both the Jhuggis of his mother Bano and that of the present Appellant/ Claimant are separate dwelling units and accordingly, the same is not sustainable in the eyes of law. The material placed on file shows that the Appellant/ Claimant along with his family was living separately & independently in the single storey Jhuggi No. C-215/H-266 bearing DDA No. 571, Kathputli Colony and further as per our discussion above, the documents placed on file shows that the Appellant/Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and his name also appears in the voter list of the year's 2012, 2013 & 2015 and furthermore, the documents placed on file also corroborates that the Appellant/Claimant along with his family was living in the single storey Jhuggi No. C-215/H-266 bearing DDA No. 571, Kathputli Colony regarding which he is claiming allotment from DDA. Furthermore, DDA has made provisional allotment by issuance of the DS No. 00525 dated 21.12.2016 (Annexure-A) & Verification Slip dated 21.12.2016 (Annexure-B) in his favour and execution of Tripartite Agreement dated 21.12.2016 (Annexure-C) and thereafter allotment of Flat No. 51, Block-A-10, Pkt.-4, Second floor, Sector-G-7, Narela vide Allotment Letter (Annexure-E) and issuance of Possession Slip No. 351 dated 08.11.2017 (Annexure-F) along with inventories in his favour and right of allotment was created in favour of the Appellant/ Claimant by issuing DS etc. In the light of our detailed discussion, we have no hesitation in holding that the Appellant/ Claimant was having all the requisite documents and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

61. 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 policy guidelines issued by DDA. But the Eligibility Determination Committee has wrongly and illegally rejected her claim. Hence the present appeal No. 171 of 2023 stands allowed, hereby, setting aside the impugned order communicated vide vide order bearing No. F/KPC (N-00151)13/Survey/LM/WZ/4064 dated 10.11.2021 issued by the Nodal Officer, Kathputli Colony. DDA is hereby directed to make alternative allotment in favour of Appellant/ Claimant, Irfan S/o Chander, in respect of the single storey Jhuggi No. C-215/H-266 bearing DDA No. 571,


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Kathputli Colony.

62. 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) 7/5/2021

Jt. Secretary (Retd.) GOI

MEMBER


(Satish Ahlawat) 7/5/2021

Addl. District & Sessions Judge (Retd.)

CHAIRMAN


(Rachna Tiwary) 7/5/2021

EXPERT MEMBER

**BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/
ADDRESS THE GRIEVANCES RELATED TO DETERMINATION/
RELOCATION OF JJ DWELLERS OF KATHPUTLI COLONY**

Appeal No: 236 of 2023

Date of Institution: 26.04.2022

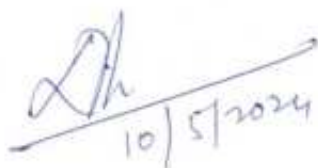
Date of Order: 10.05.2024

Present: Appellant/ Claimant Sanju W/o Deepak

Sh. Radhey Shyam Meena, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 10.11.2021 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant has made a Representation to the Competent Authority, thereby, alleging that she is living in Jhuggi bearing No. C-022B/335 in Kathputli Colony. A Notice by DDA was pasted in the Kathputli Colony to inform the Jhuggi dwellers about the survey to be conducted in the said basti. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. She was found provisionally eligible and accordingly Relocation-cum-Allotment Slip, which is commonly called as "DS" No. 03066 dated 08.02.2017 was issued in favour of Appellant/Claimant subject to final approval by Eligibility Determination Committee (hereinafter called EDC) on merits after scrutiny of the required documents and her fulfilling the requisite conditions as per the policy guidelines issued by DDA. Further, Verification Slip dated 08.02.2017 was also issued in her favour and a Tripartite Agreement dated 01.03.2017 was also executed. The Appellant/Claimant had also tendered an Affidavit dated 01.03.2017 thereby giving an undertaking that if any fact/document is/are found to be false/forged, then her provisional allotment shall be liable to be cancelled. Further, the Appellant/ Claimant has shifted to the Transit Camp after DDA has made provisional allotment in her favour. Subsequently, the Eligibility Determination Committee has considered the claim of the Appellant/ Claimant on merits and on verifications of documents


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submitted by the Appellant/ Claimant the Eligibility Determination Committee has come to the conclusion that the present Appellant/ Claimant does not fulfill the eligibility criteria as per the policy guidelines issued by DDA and accordingly rejected his claim and the Nodal Officer, Kathputli Colony, duly communicated its order bearing No. F/KPC (N-4107)13/Survey/LM/WZ/4200 dated 10.11.2021 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 236 of 2023 has been filed by the present Appellant/Claimant.

3. It is pointed out that in the month of October 2023 a bunch of about 250 appeals pertaining to Kathputli Colony has been sent to the Appellate Authority for disposal. After receiving of appeals files the same were ordered to be checked & registered and this Appellate Authority has directed to issue notice to procure the presence of the present Appellant/Claimant with the direction that it be got served by deputing official/special messenger and the copy of the same be also pasted on the Notice Board in the Transit Camp, Anand Parbat/Narela as well as on the main gate of the accommodation/flat situated in Transit Camp/Narela in which the Appellant/Claimant is at present living temporarily and in addition to that an attempt be also made by the Call Centre of DDA to intimate the Appellant/Claimant by calling him on his mobile number. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam, Dy. Director.
4. The statement of the Appellant/Claimant has been recorded before us on 01.03.2024 and thereafter on 06.05.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-T, 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. Radhey Shyam, Dy. 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-022B/335, Kathputli Colony was found to exist but it was found to be a case of double allotment and she had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternative allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal


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Officer vide Rejection Order dated 10.11.2021 whereby the reasons for rejection is mentioned to be **"Double claim against one Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. 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 by taking holistic & realistic view to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name 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 and whether it is the case of double allotment and whether she is entitled to claim allotment against the first floor of Jhuggi bearing No. C-022B/335 as per the policy guidelines issued by DDA.
8. Here it is pertinent to mention that the Appellant/ Claimant has sought alternate allotment under insitu Slum Redevelopment policy against the single storey Jhuggi No. C-022B/335 bearing DDA No. 21, Kathputli Colony, as per the policy guidelines issued by DDA. The survey was conducted in respect of the said Jhuggi and the documents, i.e., Voter ID Card & Aadhar Card etc. relating to the Appellant/ Claimant & his family members, which were furnished by the Appellant/ Claimant, were also got verified and all the materials including video clips were placed before the Eligibility Determination Committee but it has rejected the claim of the present Appellant/ Claimant and the same was communicated to the Appellant/Claimant by the Nodal Officer, KPC, vide Rejection Order dated 10.11.2021 whereby the reasons for rejection is mentioned to be **"Double claim against one Jhuggi"**. This shows that the claim of the Appellant/Claimant was rejected on the sole ground that this case was case of double claim against one Jhuggi, thereby, showing that DDA has not disputed about the existence of Jhuggi of the single storey Jhuggi No. C-022B/335 bearing DDA No. 21 on the cutoff date of 01.01.2015 and using the said Jhuggi for residential purposes but there are two claims against this Jhuggi and further the Appellant/Claimant was also having all other requisite documents and making compliance of all other mandatory conditions except that this was allegedly case of double claim against one Jhuggi. Therefore, in the light of our discussion above, we shall now appraise the material placed on file to determine as to whether it is the case of double allotment and as to whether the Appellant/ Claimant was having all the requisite documents, on the cutoff date of 01.01.2015.


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9. The statement of the Appellant/Claimant Sanju has been recorded before us on 01.03.2024 and thereafter on 06.05.2024. First of all, we shall appraise her statement dated 01.03.2024 and thereafter we shall discuss the improvement made by her in her statement dated 06.05.2024.
10. The Appellant/Claimant Sanju in her statement dated 01.03.2024 has stated that her in-laws, Gugan & Shanti, were having four sons, Leela, Deena, Vinod & Deepak and three daughters, Surya, Guddi & Billa. Gugan had expired about twenty years ago and Shanti had expired on 15.01.2023 and her Death Certificate is Annexure-L. All the children are married. Surya is married with Raju and she was living in her matrimonial home in Kathputli Colony and DDA has made allotment in favour of Surya against her matrimonial side. Guddi is married with Birju and she was living in her matrimonial home in Kathputli Colony and DDA has made allotment in favour of Guddi against her matrimonial side. Billa is married with Damka and she is living in her matrimonial home at Sikar, Rajasthan. Leela is married with Bimla and having five children. Deena is married with Guddi and having three children. Vinod was married with Laxmi and he had died about 4-5 years ago and thereafter, Laxmi had remarried. Deepak was married with Sanju (Appellant/Claimant) and having four children, Arjun, Nandu, Khushi & Priya but Deepak had expired on 05.08.2017 and his Death Certificate is Annexure-M.
11. The Appellant/Claimant has stated that her in-laws were having three separate Jhuggis in Kathputli Colony. All the three Jhuggis were single storey structures and separate dwelling units and were bearing separate Jhuggi numbers, namely, Jhuggi No. K-569 bearing DDA No. 20, Jhuggi No. K-571 bearing DDA No. 134 and Jhuggi No. C-022/B-335 bearing DDA No. 21.

Jhuggi No. K-569 bearing DDA No. 20

12. The Appellant/Claimant has stated that Leela along with his wife Bimla & all the five children was living in Jhuggi No. K-569 and regarding that DDA has made allotment in favour of Bimla and they have shifted to Transit Camp, Anand Parbat. These facts are not disputed by DDA.

Jhuggi No. K-571 bearing DDA No. 134

13. The Appellant/Claimant has stated that Deena along with his wife Guddi & all the three children was living in Jhuggi No. K-571 and regarding that DDA has made allotment in favour of Guddi and they have shifted to Transit Camp, Anand Parbat. These facts are not disputed by DDA.


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Jhuggi No. C-22/B-335 bearing DDA No. 21

14. The Appellant/Claimant has categorically admitted that there are two claims against Jhuggi No. C-22/B-335 bearing DDA No. 21. One claim is filed by her mother-in-law Shanti and other is made by the present Appellant/Claimant. Therefore, the Appellant/Claimant has admitted the stand of DDA of there being two claims against this Jhuggi No. C-22/B-335 bearing DDA No. 21. Now we shall appraise her statement as to how she is entitled to seek alternative allotment from DDA even if there are two claims against the same Jhuggi.
15. The Appellant/Claimant has stated that she along with her husband Deepak (until his death on 05.08.2017) & all the four children, Arjun, Nandu, Khushi & Priya, was living in Jhuggi No. C-22/B-335 bearing DDA No. 21. However, her mother-in-law, Shanti, under the influence of her sons had also sought allotment from DDA against this very Jhuggi No. C-22B/335 bearing DDA No. 21 but her claim was rejected by the Eligibility Determination Committee but Shanti chose not to file an appeal before the Appellate Authority.
16. The Appellant/Claimant has further stated that she had also sought allotment from DDA against the Jhuggi No. C-022/B-335 bearing DDA No. 21 and regarding that DDA has made provisional allotment in her favour thereby issued DS No. 03066 dated 08.02.2017 (Annexure-A) & Verification Slip dated 08.02.2017 (Annexure-B) and further, Tripartite Agreement dated 01.03.2017 (Annexure-C) was also executed. The Appellant/Claimant has also submitted an Affidavit dated 01.03.2017 (Annexure-D) wherein she has given an undertaking that if any fact/document is/are found to be false/fake, then her provisional allotment would be cancelled. The Appellant/Claimant has accordingly shifted to Transit Camp, Anand Parbat after DDA has made provisional allotment in her favour.
17. The Appellant/Claimant has stated that subsequently her claim was placed before the Eligibility Determination Committee but her claim was rejected by the Eligibility Determination Committee on the ground of double claim against one Jhuggi in spite of the fact the claim of her mother-in-law, Shanti, has already been rejected by the Eligibility Determination Committee for want of requisite documents and she had not filed appeal before the Appellate Authority against the rejection order and further her (Appellant/Claimant)'s claim should have been decided independently on its individual merit but EDC was swayed by the fact that her mother-in-law Shanti had also filed claim for


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alternative allotment against this very Jhuggi but it had failed to appreciate the facts that the claim of Shanti was rejected by the Eligibility Determination Committee and it had attained finality as she had not filed appeal before the Appellate Authority but the claim of the Appellant/Claimant was rejected on extraneous reasons in spite of the fact that DDA has already issued DS No. 03066 dated 08.02.2017 (Annexure-A) & Verification Slip dated 08.02.2017 (Annexure-B) in her favour and further Tripartite Agreement dated 01.03.2017 (Annexure-C) was also executed and accordingly aggrieved by the same the Appellant/Claimant has filed the present Appeal No. 236 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-T, in support of her claim and prayed that DDA be directed to make allotment in her favour.

REJECTION OF REPRESENTATION BY EDC VIDE ORDER DATED 11.03.2020

18. Now we shall appraise the material placed on file to show as to how the EDC had proceeded to deal with the claim and more particularly as to whether it was swayed by irrelevant matter or it has determined the claim of the Appellant/ Claimant fairly & independently.
19. It is not disputed that the claim of the Appellant/ Claimant was placed before the Eligibility Determination Committee (hereinafter called EDC). It is pertinent to point out that the claim of the Appellant/ Claimant was rejected by EDC on 11.03.2020 and the Nodal Officer, Kathputli Colony, duly communicated its order bearing No. F/KPC (N-4107)13/Survey/LM/WZ/4200 dated 10.11.2021 to the present Appellant/Claimant and the Note of the EDC dated 11.03.2020 (Annexure-T) is reproduced for better understanding of the facts and the grounds on which the claim of the present Appellant/ Claimant was rejected, as under: -

EDC Note dated 11.03.2020 (Annexure-T)

1. *The case of the applicant/ claimant has been examined, it was observed that the applicant was shifted to transit camp, Anand parbat in drive which was conducted in Dec 2016 to June 2017 against Jhuggi number - C-22/335.*
2. *As per available record applicant appeared on 08.02.2017 at site office of Kathputli Colony with demolition slip No. 3066 dated 08.01.2017 against Jhuggi number C-22/335 was issued on the basis of the documents by the order of Nodal officer(KPC)*


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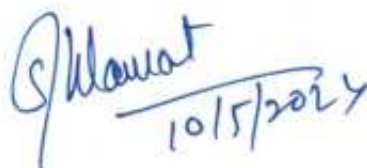

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against fresh survey and applicant was directed to report to Asstt. Director (Survey) for completion of codal formalities i.e. submission of document, for verification of jhuggi/ demolition of Jhuggi and for execution of agreement etc but applicant never submitted the verification report regarding the said Jhuggi.

3. As per survey record of year 2010-2011 survey number 21 survey was conducted in the name of Shanti w/o Gugan. Video of survey number 21 was checked and examined that Jhuggi was seen single story ground floor Jhuggi belongs to Shanti w/o Gugan and shifted to transit camp against these Jhuggies. It is possibility that applicant was residing with Smt. Shanti.
 4. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts to get the allotment merely on document without jhuggi. As per policy guidelines claimant must have separate jhuggi in the cluster.
 5. As per policy, two allotments in respect of one Jhuggi / room are not permissible as policy guidelines issued by DDA.
 6. The applicants / claimants file his claim against survey claiming allotment in respect of Jhuggi belongs to another person, two allotments are not permissible in respect of one room/jhuggi as per guidelines and her claim appears to be not a genuine one. Hence, the applicant/claimant does not fulfil the eligibility criteria. The applicant/ claimant (Sanju) is found ineligible for alternative allotment as this case of double allotment."
20. DDA has furnished three video clips pertaining to the Jhuggi No.K-569, Jhuggi No. K-571 & Jhuggi No. C-22/B-335, which were played before the Appellant/Claimant when her statement was recorded before us on 01.03.2024 & 06.05.2024 in which she has stated that the first video clip pertains to the Jhuggi No. K-569 bearing DDA No. 20 of Bimla W/o Leela and in that video clip Jhuggi No. K-569 is clearly seen to be a pucca structure and further, Bimla W/o Leela is seen and getting the survey conducted and her room & kitchen are seen and further, "DDA No. 20" is clearly seen to have been written on the front wall of the said Jhuggi No. K-569. The second video clip pertains to the Jhuggi No. K-571 bearing DDA No. 134 of Guddi W/o Deena in which the Jhuggi No. K-571 is clearly seen to be a pucca structure having roof made with tin and further, Guddi W/o Deena is seen and getting the survey conducted and further, her


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room & kitchen are seen and further, "DDA No. 134" is clearly seen to have been written on the front wall of the said Jhuggi No. K-571. The third video clip pertains to the Jhuggi No. C-022/B-335 bearing DDA No. 21 of Shanti W/o Gugan in which the Jhuggi is clearly seen to be a pucca structure having roof made with tin and further the Appellant/Claimant Sanju and her husband Deepak (since deceased) are seen and getting the survey conducted and further, they are heard making statement that the Jhuggi No. C-022/B-335 belongs to her mother Shanti W/o Gugan and further, "DDA No. 21" is clearly seen to have been written on the front wall of the said Jhuggi No. C-022/B-335.

21. As already pointed out above, the statement of the Appellant/Claimant Sanju has been recorded twice before us. Firstly, the statement was recorded on 01.03.2024, thereafter, on 06.05.2024 when she appeared before us on 06.05.2024 wherein she has almost taken somersault thereby changing her stand. Now we shall appraise her statement dated 06.05.2024 to discuss the improvement made by her and its effect.
22. The Appellant/Claimant in her statement made before us on 06.05.2024 has stated that her family was having three Jhuggis. The first Jhuggi was bearing Jhuggi No. K-569 having Survey No. 20 in which Leela along with his wife Bimla and children was living and regarding that DDA has made allotment in favour of Bimla W/o Leela. They have shifted to Transit Camp, Anand Parbat. These facts are not disputed by DDA.
23. The Appellant/Claimant has also stated that the second Jhuggi was bearing Jhuggi No. K-571 having Survey No. 134 in which Deena along with his wife Guddi & children was living and regarding that DDA has made allotment in favour of Guddi W/o Deena and they have shifted to Transit Camp, Anand Parbat. These facts are not disputed by DDA.
24. The Appellant/Claimant has stated that the third Jhuggi was bearing number Jhuggi No. C-22/B-335 having Survey No. 21 and in that Jhuggi her in-laws, Gugan & Shanti, along with the family of the Appellant/Claimant, were living and regarding that DDA has made allotment in favour of her mother-in-law, Shanti, and she has shifted to the Transit Camp, Anand Parbat. However, Shanti had expired on 15.01.2023 and now her mutation case is pending before the DDA authority. The Appellant/Claimant has stated that she along with her family was living jointly with her mother-in-law, Shanti in the said Jhuggi No. C-22/B-335 having Survey No. 21 but due to space constraints the Appellant/Claimant had placed a kuchcha chappar outside


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the Jhuggi of her mother-in-law, Shanti, and the said chappar was used for sleeping purposes whereas they were having joint kitchen and for all the purpose they were living jointly with her mother-in-law, Shanti in her Jhuggi No.C-22/B-335 bearing Survey No. 21. The Appellant/Claimant has categorically stated that because of greed she had also sought allotment from DDA against that very Jhuggi No. C-22/B-335 bearing Survey No. 21 of her mother-in-law, Shanti and her claim was rightly rejected by the Eligibility Determination Committee on the ground of double allotment against one Jhuggi because against that very Jhuggi No. C-22/B-335 bearing Survey No. 21, DDA had already made allotment in favour of her mother-in-law, Shanti.

25. Thus as pointed out above when the statement of the Appellant/Claimant was recorded on 01.03.2024 she stated that under the influence of her sons, Shanti had claimed allotment against the Jhuggi No. C-22/B-335 bearing Survey No. 21 but her claim was rejected by the Eligibility Determination Committee and she has not filed any appeal before the Appellate Authority. But as pointed above, the Appellant/Claimant has altogether changed her statement and now she had admitted that DDA has made allotment in favour of Shanti widow of Gugan and further after the death of Shanti on 15.01.2023, her mutation case is pending before the DDA authority.
26. It is also pointed out that on 01.03.2024 the Appellant/Claimant has stated that she along with her husband Deepak (until his death on 05.08.2017) and all the four children was living in Jhuggi No. C-22/B-335 bearing Survey No. 21 and regarding that DDA has made provisional allotment in her favour by issuing DS No. 03066 dated 08.02.2017 (Annexure-A) and Verification Slip dated 08.02.2017 (Annexure-B) and Tripartite Agreement dated 01.03.2017 (Annexure-C) but subsequently her claim was rejected by the Eligibility Determination Committee on the ground of double allotment against the same Jhuggi No. C-22/B-335 and accordingly, aggrieved by the same she had filed the present Appeal No. 236 of 2023 before the Appellate Authority for redressal. However, when the statement of the Appellant/Claimant was recorded before us on 06.05.2024, she has completely changed her stand wherein she has stated that she was living jointly with her mother-in-law, Shanti, in Jhuggi No. C-22/B-335 bearing Survey No. 21 but due to space constraints the Appellant/Claimant had placed a kuchcha chappar outside the Jhuggi of her mother-in-law, Shanti, and the said chappar was used for sleeping purposes whereas they were having joint


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kitchen and for all the purpose they were living jointly with her mother-in-law, Shanti in her Jhuggi No. C-22/B-335 bearing Survey No. 21. Furthermore, in the video prepared by the survey team the Jhuggi No. C-022/B-335 bearing DDA No. 21 of Shanti W/o Gugan is clearly seen to be a pucca structure having roof made with tin and further the Appellant/Claimant Sanju and her husband Deepak (since deceased) are seen and getting the survey conducted and further, they are heard making statement that the Jhuggi No. C-022/B-335 belongs to her mother in -law Shanti W/o Gugan and further, "DDA No. 21" is clearly seen to have been written on the front wall of the said Jhuggi No. C-022/B-335. This shows that at the time of survey the Appellant/Claimant as well as her husband Deepak, who was very much alive at that time, have categorically stated that the said Jhuggi belonged to Shanti W/o Gugan.

27. The admission of the Appellant/Claimant is a clincher piece of evidence because the Appellant/Claimant has categorically admitted that because of greed she had also sought second allotment from DDA against that very Jhuggi No. C-22/B-335 bearing Survey No. 21 of her mother-in-law, Shanti, and her claim was rightly rejected by the Eligibility Determination Committee on the ground of double allotment against one Jhuggi because against that very Jhuggi No. C-22/B-335 bearing Survey No. 21, DDA had already made allotment in favour of her mother-in-law, Shanti.
28. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that she along with her family was living jointly with her mother-in-law, Shanti, in her single storey Jhuggi No. C-22/B-335 bearing Survey No.21 and regarding that DDA has made allotment in favour of Shanti widow of Gugan but against that very Jhuggi No. No. C-22/B-335 bearing Survey No.21 the Appellant/Claimant has also sought allotment from DDA inspite of the fact that she very well knew that second allotment is not permissible as per the policy guidelines issued by DDA. This shows that the Eligibility Determination Committee has rightly rejected the claim of the Appellant/Claimant because double allotment is not permissible as per the policy guidelines issued by DDA.
29. There is nothing to disbelieve the statement of the Appellant/Claimant, which has been duly corroborated by the survey records prepared by the survey team of DDA to the effect that she along with his family was living jointly in the single storey Jhuggi No. C-022B/335 bearing DDA No. 21 with her mother-in-law, Shanti widow of Gugan and regarding that DDA has made allotment in favour of Shanti widow of Gugan and further against that very Jhuggi No. No. C-


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22/B-335 bearing Survey No.21 the Appellant/Claimant has also sought second allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant is not eligible to seek allotment from DDA against the said Jhuggi No. C-022B/335 bearing DDA No. 21 because double allotment is not permissible as per the policy guidelines issued by DDA.

30. 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, 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 the single storey Jhuggi No. C-022B/335 bearing DDA No. 21 as per the policy guidelines issued by DDA.
31. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-T, in support of her claim and prayed that DDA be directed to make allotment in her favour against the single storey Jhuggi No. C-022B/335 bearing DDA No. 21.
32. 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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33. It is mandated that there is verification in terms of biometric authentication via Aadhar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

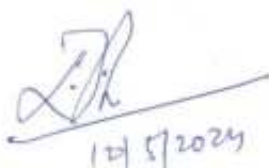
GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMENTS OF DOCUMENTS

34. As per Clause 1 (6) Part-B 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 in Clause 2. 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 one of the documents out of list of 12 documents.
35. Thus the bare perusal of the Policy shows that for claiming allotment against the **ground floor** the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff 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 and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMENTS OF DOCUMENTS

36. As already pointed out above, condition contained in Clause 1 (10) of Part-B 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


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allotment of a separate dwelling units."

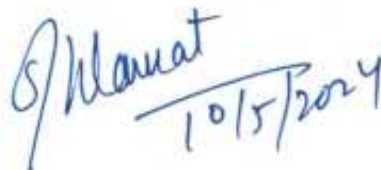
37. Thus Clause 1 (10) of Part-B of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. Therefore, the dweller, who is not having ration card, will not be eligible for allotment even if he possesses any one of the documents out of list of 12 documents.
38. Thus the bare perusal of the Policy shows that for claiming allotment against the first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff 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 and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against the upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

39. The bare perusal of the Policy shows that different criterion has been provided for the JJ dwellers claiming alternative allotment against the ground & first floors in the DDA policy because the dweller, who is claiming allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming allotment against the upper floor, to have a ration card issued before the cutoff date of 01.01.2015. Dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor so on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. But both are required to be treated on parity irrespective of that whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

40. It is not out of context to point out that this Appellate Authority had decided the Appeals


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pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the point of ration card was not discussed. Therefore, this Appellate Authority changed its view by taking a conservative approach on the requirement of ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and have decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

41. Now the matter has been settled by way of judicial pronouncement as the legality of requirement of a Ration Card as a mandatory document for the dwellers claiming allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the Hon'ble High Court of Delhi in the case of "**Mohammad Hakam and Another versus Delhi Development Authority**" in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022".
42. The facts of the Mohammad Hakim's case (supra) are that the claim of Petitioner No. 1 (before the Hon'ble High Court) was rejected by the EDC and aggrieved by the same he had filed Appeal No. 61 of 2017/04/2017 before this very Appellate Authority and his appeal was allowed by this Appellate Authority vide order dated 30.01.2019 thereby holding that he fulfills the eligibility criteria as per the guidelines issued by DDA, however, the EDC has wrongly and illegally rejected his claim and accordingly DDA was directed to make allotment in his favour with respect to Jhuggi No. E-278, Kathputli Colony. But the order of the Appellate Authority dated 30.01.2019 was set aside by the Administrative Department of DDA and aggrieved by the same Petitioner No. 1 has filed Writ Petition bearing No. W.P. (C) 1585/2022 before the Hon'ble High Court of Delhi. Similarly, the claim of Petitioner No. 2 (before the Hon'ble High Court) was rejected by the EDC and aggrieved by the same he had filed Appeal No. 40 of 2017 before this very Appellate Authority and his appeal was allowed by this

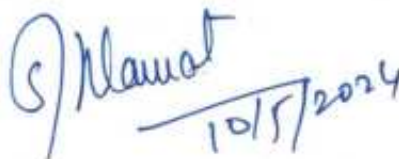

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Appellate Authority vide order dated 17.08.2018 thereby holding that he fulfills the eligibility criteria as per the guidelines issued by DDA because it was held that the applicant had applied for issuing separate ration card but the concerned authority had refused to issue a separate ration card because of policy of the concerned Food Department and not due to any default or inaction or lapse on his part and thus he had explained the reasons of non issuance of separation card by the Food & Civil Supply Department in his individual name pertaining to the first floor of the Jhuggi in question even though he was living separately & independently, however, the EDC has wrongly and illegally rejected his claim and accordingly DDA was directed to make allotment in his favour with respect to Jhuggi No. E-81, Kathputli Colony. But the order of the Appellate Authority dated 17.08.2018 was set aside by the Administrative Department of DDA and aggrieved by the same Petitioner No. 2 has filed Writ Petition bearing No. W.P. (C) 1585/2022 before the Hon'ble High Court of Delhi. Similarly, the claim of Petitioner No. 3 (before the Hon'ble High Court) was rejected by the EDC and aggrieved by the same he had filed Appeal No. 01 of 2017 before this very Appellate Authority and his appeal was allowed by this Appellate Authority vide order dated 19.07.2018 thereby holding that he fulfills the eligibility criteria as per the guidelines issued by DDA because it was held that the applicant had explained the reasons of non issuance of separation card by the Food & Civil Supply Department in his individual name pertaining to the first floor of the Jhuggi in question even though he was living separately & independently, however, the EDC has wrongly and illegally rejected his claim and accordingly DDA was directed to make allotment in his favour with respect to Jhuggi No. B-643, Kathputli Colony. But the order of the Appellate Authority dated 19.07.2018 was set aside by the Administrative Department of DDA and aggrieved by the same Petitioner No. 3 has filed Writ Petition bearing No. W.P. (C) 2514/2022 before the Hon'ble High Court of Delhi. Both the Writ Petitions bearing W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022" were consolidated. However, pursuant to the filing of the writ petition the case of the petitioner No. 1 was re-examined and reviewed by the competent authority of DDA and it was found that his case was inadvertently recommended for 'non-acceptance' by the competent authority due to mixing of his records with other 62 cases, therefore, DDA rectified its mistake by withdrawing the impugned letter of rejection and granting the relief as sought by him in the writ petition. But the relief claimed by the respondent No. 2 & 3 was contested on merit and was decided on 29.02.2023 by the


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Hon'ble High Court of Delhi whereby the decisions of the Appellate Authority was upheld thereby setting aside the impugned orders passed by the Administrative Department/Nodal Officer of DDA wherein it has been held as under: -

"81. In this backdrop, this Court deems it apposite to discuss the concept of Ration card and the aim of issuing the same.

82. The term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System.

83. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder.

84. Moreover, this Court shall now peruse the Para 4(6) of Gazette notification No. G.S.R. 104(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution which disallows the use of ration card as a document of identity or proof of residence. The relevant extract has been reproduced herein below:

"4. Ration Cards.-

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(6) Ration card shall not be used as a document of identity or proof of residence."

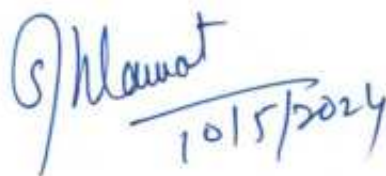
85. Hence, ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism setup by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card.

86. The aim of the ration card is to ensure that the citizens of this country are provided foodgrains at a reasonable price. Hence, it is not reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System.

87. Therefore, the respondent has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed gazette notification, definition of ration card as well as the intent behind issuance of the same.

88. Furthermore, in the instant petition the petitioners contended that they have applied for Ration Cards, however, they have not been issued the same by the Competent Authority. In this regard, the Court shall discuss the order of the Coordinate


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Bench of this Court in writ petition bearing no. **Shanti Devi vs Union of India**¹ wherein the petitioner applied for the ration card in the year 2013 (8 years before), however, she was not issued the same for the last 8 years, despite giving several representations. The afore discussed order has been reproduced herein below:

"1. The petitioner, who claims to be falling within the category of persons Below Poverty Line (BPL)" has approached this Court with the grievance that despite repeated representations made by her, she has not been issued a ration card for the last eight years.

2. On the last date, Mr. Narayan, learned counsel for respondent nos.2 to 4 was granted time to obtain instructions. Today, he submits that no ration card could be issued to the petitioner as the limit for issuance of 72 lakh ration cards set by respondent no. 1, based on the Census of 2011, already stands exhausted and therefore, the respondents nos.2 to 4 cannot be faulted for not having issued a ration card to the petitioner."

89. In view of the aforesaid order, it is pertinent to note that ration cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limit for issuance of Ration Card has already been exhausted, therefore, even if a person is eligible to be issued Ration Card, he/ she shall not be issued the same.

90. Hence, in light of the aforesaid submissions by the learned counsel for the Delhi Government in the aforesaid writ petition, this Court is of the considered view that the contention of the petitioners in the instant batch of petitions regarding non- issuance of Ration Card holds water.

91. Keeping in mind the aforesaid circumstances, this Court is of the view that mere non-issuance of a Ration Card cannot be a ground for denial of the alternative allotment to the petitioners. The respondent should have introspected into the issue and accordingly, should have taken step to alleviate issues faced by the poor dwellers of the Kathputali Colony.

92. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Moreover, it is responsibility of the respondent that they should have introspected into the intent and motive behind issuing of the Ration Card which is distribution of food through Public Distribution System.

93. Therefore, the requirement of a Ration Card as mandatory document to be produced before the respondent as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. The respondent should have exercised due caution and care before adhering to such a requirement. It should take a fair and


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realistic view of the circumstances before it.

94. The respondent should introspect on the fact that how much harassment and pain must have been caused to the petitioners due to such arbitrary requirements. The afore discussed actions of the respondent is in clear violation of the petitioners' right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of this Court in the judgment of **Udal v. Delhi Urban Shelter Improvement Board and Ors² 2017 SCC OnLine Del 9715** as follows:

"15. It is trite that the right to housing is an essential part of Right to Life and a fundamental right ensured by Article 21 of the Constitution of India. It has also been held that the right to life is not right to merely an animal existence but an entitlement to reasonable accommodation (Ref.: (1996) 2 SCC 549, Chameli Singh v. State of U.P. and (1990) 1 SCC 520, Shantistar Builders v. Narayan Khimalal Totame). The contours of this right were further expanded by a pronouncement of the Supreme Court reported at (1997) 11 SCC 121, Ahmadabad Municipal Corporation v. Nawab Khan Gulab Khan wherein the court held that when slum dwellers have been residing at a place for some time, it became the duty of the government to make schemes for housing these jhuggi dwellers. Relying on the principles laid down in these judgments, this court in 168 (2010) DLT 298, Sudama Singh v. Government of Delhi has relied upon the provisions of the Delhi Master Plan and emphasized in-situ rehabilitation of the slum dwellers.

16. Judicial notice can be taken of the fact that the National Capital Territory of Delhi attracts people, especially poor people, from all over the country who come to the city in search of work and must reside reasonably near to their place of work. In recognition of the responsibility to house the poor in a permanent humane manner, the Government of NCT of Delhi announced "Delhi Slum and JJ Rehabilitation and Relocation Policy, 2015". Under Clause 2(a), Delhi Urban Shelter Improvement Board („DUSIB" hereafter) was appointed as the nodal agency for implementation of the policy."

95. Accordingly, this Court is also of the view that the petitioners' right to housing shall be kept at the highest pedestal. It is one of the safeguards provided in our Constitution and the legacy has been carried forward by the writ Court by way of various judicial precedents which reiterates the same.

96. In the instant petitions, the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over quasi-judicial matters already adjudicated upon by the appellate authority. This aforesaid act of the Nodal officer of the respondent underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly,


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the impugned orders passed in both the writ petition are set-aside.

97. *The decision of the appellate authority is upheld which held that the petitioners are in possession of other documents as stipulated by Clause 2 of the Policy as well as the aforesaid documents are issued before the cut-off date, hence, the petitioners are entitled for an alternative dwelling unit and their claims shall be admitted by the respondent.*

98. *Accordingly, this Court holds that the impugned orders passed by the Nodal Officer of the respondent are liable to be set-aside.*

CONCLUSION

99. *The afore-discussed actions of the respondent, ostensibly operating within the framework of legality, struck at the heart of justice, undermining the very principles upon which the judicial system purportedly stands. Subsequent to the petitioners' challenge of the initial rejection, the issuance of a second letter of rejection by the respondent compounded the petitioners' anguish. This second rejection purportedly cited new reasons for denial, yet failed to withstand scrutiny in light of legal precedents previously established by the writ Courts and of particular note was the justification provided by the respondent for the second rejection, namely, the purported non-filing of a ration card by the petitioner. Such a justification, given the petitioner's provision of alternative legal proofs of identity consistent with statutory requirements and prior judicial interpretation, underscored the arbitrary nature of the respondent's actions.*

100. *The petitioner's distress, exacerbated by the respondent's actions, exemplified the inherent flaws within the legal system, which too often favours the powerful over the marginalized. The respondent's actions, shielded by the veneer of legality, served to perpetuate systemic injustices, leaving the petitioners vulnerable.*

101. *The Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the jhuggis there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the jhuggis especially in the light of the paragraph no. 4(6) of Gazette Notification No. G.S.R. 104(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution which disallows the use of ration card as a document of identity or proof of residence. Moreover, the intent of issuance of Ration Card is distribution of essential food items by Public Distribution System and hence, it does not intent on being used as an identity proof or an address proof.*

102. *Hence, the Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 (PART-B) has wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card.*

103. *This Court is of the view that the respondent shall consider other documents*


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issued before the cut-off date i.e., 1st January 2015 as enlisted in Clause 2 of The Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 (PART-B) which are as follows: Passport, 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 (except EPIC), Pass book issued by Public Sector Banks/ Post Office with photograph, SC/ST/OBC Certificate issued by the Competent Authority Pension document with photograph such as Ex-serviceman's Pension Book, Pension Payment Order, Ex-serviceman widow/dependent certificate, old age pension order or widow pension order, Freedom Fighter Identity Card with photograph, Certificate of physically handicapped with photograph issued by the Competent Authority, Health Insurance Scheme Smart card with photograph (Ministry of Labour scheme, Identity card with photograph issued in the name of the descendants) of the slum dweller from a Government school or Certificate with photograph issued by the Principal of a Government School mentioning therein that the descendants) of the JJ dweller is/was the student of the school.

104. In view of the aforesaid discussion, the impugned orders dated 3rd July 2020 in both writ petitions are quashed by this Court by way of exercising its jurisdiction vested under Article 226 of the Constitution of India. Accordingly, the instant petitions are allowed.

105. This Court directs the respondent to allocate an alternative dwelling unit in favor of the petitioners subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of The Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 (PART-B) issued before the cut-off i.e., 1st January 2015, the deposit of amount as stipulated by the respondent as well as any other requirement as mandated by the respondent.

106. Accordingly, the instant petitions alongwith pending applications, if any, are disposed of.

107. The judgment to be uploaded on the website forthwith."

43. The Hon'ble High Court had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) OF Gazette Notification No. G.S.R. 104(E)


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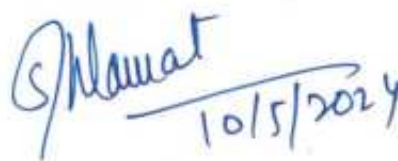
dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

44. It is further held that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

45. It was also pointed out that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separation card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

46. It is further held that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act


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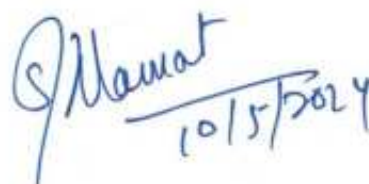

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of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set aside thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The decision of the Appellate Authority were upheld, which held that the petitioners were in possession of other documents as stipulated by Clause 2 of the Policy as well as the aforesaid documents are issued before the cut-off date, hence, the petitioners were held entitled for an alternative dwelling unit and their claims shall be admitted by the respondent/DDA and accordingly, the impugned orders passed by the Nodal Officer of the DDA were set aside.

47. Therefore, the facts of the present appeal are squarely covered by the facts of the Mohammad Hakim's case (supra) wherein the Hon'ble High Court of Delhi has held that the DDA policy as per Clause (1) (x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggis there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis and it has been held that the DDA policy, 2015 (PART-B) has wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered.

48. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor. In view of our discussion above, the bare perusal of the DDA Policy 2015 in the light of judgment in Mohammad Hakim's case (supra) shows that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter


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ID Card & 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 and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

GIST OF THE POLICY

49. In the light of our discussion above, we shall now appraise the material placed on file by 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 and whether she possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the single storey Jhuggi No. C-022B/335 bearing DDA No. 21 as per the policy guidelines issued by DDA.
50. The Appellant/Claimant has tendered her Voter ID Card No. SMM 0103416 (Annexure-E), Aadhar Card (Annexure-F), Voter List of the year 2012 (Annexure-Q), Voter List of the year 2013 (Annexure-R) and Voter List of the year 2015 (Annexure-S) in support of her claim.
51. It is pointed out that the Voter ID Card No. SMM 0103416 (Annexure-E) of the Appellant/Claimant, Sanju has been issued on 18.10.2008, much prior to the cutoff date 01.01.2015. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 82 in the Voter List of the year 2012 (Annexure-Q), at Sl. No. 82 in the Voter List of the year 2013 (Annexure-R) and at Sl. No. 93 in the Voter List of the year 2015 (Annexure-S). Therefore, the material placed on file shows that the Appellant/Claimant was having a valid Voter ID 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 and 2015 but as already pointed out above, the Appellant/Claimant has been found to be living jointly with her mother-in-law, Shanti widow of Gugan on the cutoff date of 01.01.2015 in her single storey Jhuggi No. C-022B/335 bearing DDA No. 21 and further DDA has made allotment against the said Jhuggi in favour of her mother-in-law, Shanti and accordingly double allotment is not permissible as per the policy guidelines issued by DDA, therefore, the Appellant/Claimant is not entitled to get allotment from DDA as per the policy guidelines issued by DDA.


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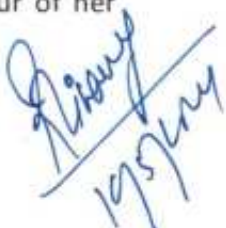

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52. The Appellant/Claimant has tendered Voter ID Card No. SMM 0103408 (Annexure-G) & Aadhar Card (Annexure-H) of her husband Deepak, Aadhar Cards (Annexure-I to Annexure-K) of her children, Khushi, Arjun & Nandni and Ration Cards (Annexure-N & Annexure-O).
53. It is pointed out that the Voter ID Card No. SMM 0103408 (Annexure-G) of her husband Deepak has been issued on 18.10.2008, much prior to the cutoff date 01.01.2015. Deepak had died on 05.08.2017 and his Death Certificate is Annexure-M. However, before his death he had used his Voter ID Card No. SMM 0103408 (Annexure-G) to cast vote and his name also appears at Sl. No. 81 in the Voter List of the year 2012 (Annexure-Q), at Sl. No. 81 in the Voter List of the year 2013 (Annexure-R) and at Sl. No. 92 in the Voter List of the year 2015 (Annexure-S). This accordingly shows that in addition to the Appellant/Claimant her husband Deepak (since deceased) was also having a Voter ID Card and his name also appears in the Voter List of the years 2012, 2013 and 2015 and further, all these documents have been issued on the address of the Jhuggi No. C-022/B-335 regarding which the Appellant/Claimant has been claiming allotment from DDA. It is pointed out that the Aadhar Card (Annexure-H) of her husband Deepak (since deceased) has been issued on 23.01.2012, Aadhar Card (Annexure-I) of her daughter Khushi has been issued on 27.01.2014, Aadhar Card (Annexure-J) of her son, Arjun has been issued on 26.08.2015 and Aadhar Card (Annexure-K) of her daughter Nandni has been issued on 16.09.2015 and all these documents have been issued on the address of Jhuggi No. C-22/B-335 regarding which the Appellant/Claimant is claiming allotment from DDA. It is pointed out that the Appellant/Claimant has tendered two Ration Cards (Annexure-N & Annexure-O). The first Ration Card (Annexure-N) is bearing number AAY 66290026 and it has been issued on 27.07.2008 in favour of her mother-in-law, Shanti and the name of her husband Deepak has been mentioned. The second Ration Card (Annexure-O) is bearing number 077004238698 and it has been issued on 26.07.2014 in favour of the Appellant/Claimant Sanju and the name of her husband Deepak (since deceased) is mentioned. It is pointed 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 the Appellant/Claimant has been found to be living jointly with her mother-in-law, Shanti widow of Gugan on the cutoff date of 01.01.2015 in her single storey Jhuggi No. C-022B/335 bearing DDA No. 21 and further DDA has made allotment against the said Jhuggi in favour of her


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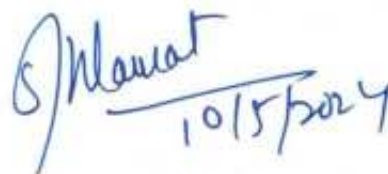

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mother-in-law, Shanti and accordingly double allotment is not permissible as per the policy guidelines issued by DDA, therefore, the Appellant/Claimant is not entitled to get allotment from DDA as per the policy guidelines issued by DDA.

54. The Appellant/ Claimant has contended that his claim was ultimately rejected by the Eligibility Determination Committee vide order dated 10.11.2021 in spite of the fact that much earlier to that DDA has made provisional allotment in her favour by issuing DS No. 03066 dated 08.02.2017 (Annexure-A) & Verification Slip dated 08.02.2017 (Annexure-B) in her favour and the Tripartite Agreement dated 01.03.2017 (Annexure-C) was also executed but these facts were not duly considered by EDC. Accordingly, she has come before us thereby challenging the order of rejection dated 10.11.2021.
55. It is not disputed that DDA has made provisional allotment in favour of the present Appellant/ Claimant and had issued DS No. 03066 dated 08.02.2017 (Annexure-A) & Verification Slip dated 08.02.2017 (Annexure-B) in her favour and the Tripartite Agreement dated 01.03.2017 (Annexure-C) was also executed whereas her claim was finally rejected by the EDC on 10.11.2021. Now we shall consider as to what is the legal effect of issuance of DS No. 03066 dated 08.02.2017 (Annexure-A) & Verification Slip dated 08.02.2017 (Annexure-B) in her favour and execution of the Tripartite Agreement dated 01.03.2017 (Annexure-C) and whether any right of allotment was created in favour of the Appellant/ Claimant merely by issuing DS etc. by DDA in her favour.
56. It is not disputed before us that Kathputli Colony Project is a pilot project of DDA for in-situ development of Kathputli Colony. In 2010, survey teams were constituted by LM Department, DDA for conducting door-to-door survey of Kathputli Colony JJ Cluster. Survey was initiated in January 2010 and completed in January 2011 and videography was also done of each Jhuggi. The survey list was uploaded on the website of DDA and was also displayed on the Notice Board at Transit Camp, Anand Parbat. In compliance of the Orders of the Hon'ble High Court of Delhi, fresh applications were invited for resurvey after giving wide publicity. The resurvey work began with effect from 13.07.2014 and the same was completed by the end month of September 2014. But because of non-submission of complete documents, no fresh name was incorporated in the main survey list in the year 2014. Thereby considering various representations, DDA had conducted special drive from 19.12.2016 to 30.06.2017 and the names of JJ dwellers whose names did not appear in the earlier survey list were added.


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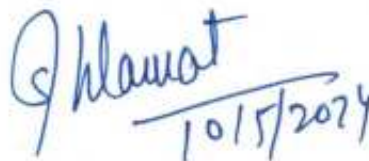

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Subsequently, DDA had adopted DUSIB/GNCTD policy on 10.02.2017 and the cut off date was changed to 01.01.2015 for Kathputli Colony. Since the cut off date was changed and it necessitated conducting fresh survey and the last date of submission was extended several times and it was finally extended up to 25.07.2017. Thereafter, a survey was conducted in the month of July/August 2017. The shifting process of dwellers from Kathputli Colony to Transit Camp, Anand Parbat was started in February 2014 and by the end of July 2014, 527 families were shifted to the Transit Camp. The shifting process was restarted on 19.12.2016 and till 30.06.2017, 826 additional families were shifted to the Transit Camp thereby bringing the total number to 1355. Side by side, the demolition work was also initiated.

57. A public notice dated 25.10.2017 was pasted in the Kathputli Colony and also in the Notice Board of the Project Office of the DDA and dwellers were also informed that on the basis of various surveys and documents submitted by the dwellers/applicants, all the eligible persons having requisite documents as per the policy/guidelines have been included in the survey list and the list stands displayed at Kathputli Colony Project Office and also uploaded on the website of DDA. It was further informed that the dwellers declared provisionally eligible having names in this list may shift to the Transit Camp, Anand Parbat or Narela. The demolition work was restarted from 06.01.2017 and all the Jhuggis were demolished.
58. JJ dwellers, who were declared provisionally eligible, were shifted to the Transit Camp, Anand Parbat/Narela and their eligibility was subject to scrutiny by Eligibility Determination Committee. The 771 ineligible persons were issued Ineligibility Letters with an opportunity to file appeal before the Appellate Authority constituted by DDA.
59. As per the record, the shifting process of dwellers from Kathputli Colony to Transit Camp Anand Parbat was started in February 2014 and by the end of July 2014, 527 families were shifted to the Transit Camp at Anand Parbat/Narela and in that drive which was conducted from December 2016 to June 2017, about 855 families of JJ dwellers were shifted.
60. It is not disputed before us that an undertaking was obtained from each dweller, who were declared provisionally eligible, before executing agreement/issue of provisional possession letter while shifting, wherein he/she has undertaken that the information/documents submitted by him/her are true & correct and all the documents submitted by him/her are original & genuine and in future, in case the facts are found to be wrong/false and documents


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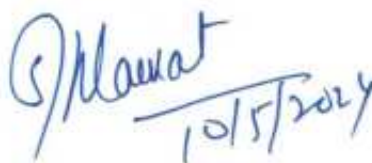

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submitted by him/her are found to be forged/fabricated, his/her allotment would be treated as cancelled.

61. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly accordingly to the merit of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey of 2010-2011 and of July 2017 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.
62. Now coming to the fact of the present case it is pertinent to point out that the bare reading of Relocation-cum-Allotment Slip (DS) No. 03066 dated 08.02.2017 (Annexure-A) shows that the issuance of DS No. 03066 dated 08.02.2017 (Annexure-A) & Verification Slip dated 08.02.2017 (Annexure-B) in her favour and execution of the Tripartite Agreement dated 01.03.2017 (Annexure-C) was subject to fulfillment of terms and conditions of guidelines issued by DDA and this was subject to final scrutiny of eligibility of the Appellant/ Claimant by the Eligibility Determination Committee (EDC) as per the policy guidelines issued by DDA. Furthermore, the Appellant/Claimant had submitted an Affidavit dated 01.03.2017 (Annexure-D) thereby giving an undertaking that if any fact/document is/are found to be false/forged, then her provisional allotment would be cancelled. Thus there is no doubt that DDA has made provisional allotment by issuance of Eviction-cum-Demotion Slip No. DS No. 03066 dated 08.02.2017 (Annexure-A) & Verification Slip dated 08.02.2017 (Annexure-B) in her favour and execution of the Tripartite Agreement dated 01.03.2017 (Annexure-C) and this was subject to final scrutiny of eligibility of the Appellant/ Claimant by the Eligibility Determination Committee as per the policy guidelines issued by DDA and no right of allotment was created in favour of the Appellant/ Claimant merely by issuing DS etc.
63. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Appellant/Claimant has been found to be living jointly with her mother-in-law, Shanti widow of Gugan on the cutoff date of 01.01.2015 in her single storey


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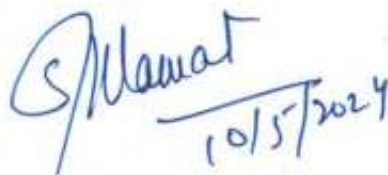

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Jhuggi No. C-022B/335 bearing DDA No. 21 and further DDA has made allotment against the said Jhuggi in favour of her mother-in-law, Shanti and accordingly double allotment is not permissible as per the policy guidelines issued by DDA, therefore, the Appellant/Claimant is not entitled to get allotment from DDA as per the policy guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the DS No. 03066 dated 08.02.2017 (Annexure-A) & Verification Slip dated 08.02.2017 (Annexure-B) in her favour and the Tripartite Agreement dated 01.03.2017 (Annexure-C) was also executed on the basis of wrong and false facts inspite of the fact that he very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. It is already pointed out that the Appellant/Claimant had submitted an Affidavit dated 01.03.2017 (Annexure-D) given an undertaking that if any fact/document is/are found to be false/forged, then her provisional allotment would be cancelled. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with his family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-T, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make his eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

64. Before parting with this order it is pointed out that the material placed on file shows that Shanti widow of Gugan along with the family of his son Deepak (since deceased) including the present Appellant/Claimant was living in a single storey Jhuggi No. C-22/B-335 bearing Survey No. 21 and regarding that DDA has made allotment in favour of Shanti widow of Gugan and she had shifted to Transit Camp, Anand Parbat. Furthermore, the said Shanti had expired on 15.01.2023 and her Death Certificate is Annexure-L and now her mutation case is pending before the DDA authority. Furthermore, the material placed on file also shows that DDA has also made four allotments in favour of five of the family members of Shanti (since deceased) because DDA has made allotment in favour of Shanti (since deceased) Widow of Gugan against Jhuggi No. C-22/B-335 bearing Survey No.21; Bimla (since deceased) W/o Leela S/o


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Gugan against Jhuggi No. K-569 bearing Survey No. 20; in favour of Guddi W/o Deena S/o Gugan against Jhuggi No. K-571 bearing Survey No.134 and also in favour of Surya D/o Gugan W/o Raju & Guddi D/o Gugan W/o Birju. Therefore, it is expected that DDA authority shall take note of all the relevant facts & circumstances about allotments having been made to five family members of Shanti (since deceased) and accordingly as & when the mutation case of Shanti (since deceased) against the Jhuggi No. C-22/B-335 bearing Survey No.21 is decided it shall sympathetically consider the claim of the present Appellant/Claimant as the legal heir of Shanti (since deceased) Widow of Gugan, as the Appellant/Claimant has been found to be living jointly with her mother-in-law, Shanti (since deceased) in the said Jhuggi on the cutoff date of 01.01.2015.

65. 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 or illegality in the impugned order bearing No. F/KPC (N-4107)13/Survey/LM/WZ/4200 dated 10.11.2021. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.
66. 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) 10/5/2024

Jt. Secretary (Retd.) GOI
MEMBER


(Satish Ahlawat) 10/5/2024

Addl. District & Sessions Judge (Retd.)
CHAIRMAN


(Rachna Tiwary) 10/5/2024

EXPERT MEMBER

**BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/
REDRESS THE GRIEVANCES RELATED TO DETERMINATION/
RELOCATION OF JJ DWELLERS OF KATHPUTLI COLONY**

Appeal No: 237 of 2023

Date of Institution: 04.02.2021

Date of Order: 13.05.2024

Present: Appellant/ Claimant Deepali W/o Billu

Sh. Radhey Shyam Meena, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 10.11.2021 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant has made a Representation to the Competent Authority, thereby, alleging that she is living in Jhuggi bearing No. B-10/12 in Kathputli Colony. A Notice by DDA was pasted in the Kathputli Colony to inform the Jhuggi dwellers about the survey to be conducted in the said basti. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. She was found provisionally eligible and accordingly Relocation-cum-Allotment Slip, which is commonly called as "DS" No. 03069 dated 08.02.2016 was issued in favour of Appellant/Claimant subject to final approval by Eligibility Determination Committee (hereinafter called EDC) on merits after scrutiny of the required documents and her fulfilling the requisite conditions as per the policy guidelines issued by DDA. The Verification Slip dated 09.02.2017 was also issued and further, Tripartite Agreement dated 09.02.2017 was also executed. The Appellant/Claimant had also submitted an Affidavit dated 09.02.2017 thereby giving an undertaking that if any fact/document is/are found to be false/forged, then her provisional allotment shall be liable to be cancelled. Further, the Appellant/ Claimant has shifted to Narela after DDA has made provisional allotment in her favour. Subsequently, the Eligibility Determination Committee has considered the claim of the Appellant/ Claimant on merits and on verifications of documents submitted by the Appellant/ Claimant the Eligibility Determination Committee has come to the conclusion that the present Appellant/ Claimant does not fulfill the eligibility criteria as per the policy guidelines issued by DDA and accordingly



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rejected her claim and the Nodal Officer, Kathputli Colony, duly communicated its order bearing No. F/KPC (N-4112)13/Survey/LM/WZ/4203 dated 10.11.2021 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 237 of 2023 has been filed by the present Appellant/Claimant.

3. It is pointed out that in the month of October 2023 a bunch of about 250 appeals pertaining to Kathputli Colony has been sent to the Appellate Authority for disposal. After receiving of appeals files the same were ordered to be checked & registered and this Appellate Authority has directed to issue notice to procure the presence of the present Appellant/Claimant with the direction that it be got served by deputing official/special messenger and the copy of the same be also pasted on the Notice Board in the Transit Camp, Anand Parbat/Narela as well as on the main gate of the accommodation/flat situated in Transit Camp/Narela in which the Appellant/Claimant is at present living temporarily and in addition to that an attempt be also made by the Call Centre of DDA to intimate the Appellant/Claimant by calling him on his mobile number. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam, Dy. Director.
4. The statement of the Appellant/Claimant has been recorded before us on 07.05.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-S, 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. Radhey Shyam Meena, Dy. 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-10/12, Kathputli Colony 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 alternative 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 10.11.2021 whereby the reasons for rejection is mentioned to be **"UPPER FLOOR JHUGGI as per policy guidelines separate Ration card is required"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.


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7. 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 by taking holistic & realistic view to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a Separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name 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 and whether she is entitled to claim allotment against the first floor of Jhuggi bearing No. B-10/12 as per the policy guidelines issued by DDA.
8. The statement of the Appellant/Claimant Deepali has been recorded before us on 07.05.2024 wherein she has stated that her parents; Ambu Lal & Santosh, are having two sons; Subhash & Amit and five daughters; Meena, Deepali, Moti, Pinky & Puja. All the children are married. Subhash is married with Puja and having four children. Amit is married with Rajni and having one child. Pinky is married with Bunti and she was living in her matrimonial home in Kathputli Colony and regarding that DDA has made allotment in her favour against her matrimonial side and she has shifted to Narela. Puja is married with Bunty and she was living in her matrimonial home in Kathputli Colony and now she has shifted to the Transit Camp, Anand Parbat as DDA has made allotment in favour of her in-laws. Moti was married with Ravi and she was living in Kathputli Colony and DDA had made allotment in her favour against her matrimonial side and she had shifted to Narela but about two years ago, she has expired. Meena is married with Kishor. Deepali (Appellant/Claimant) is married with Billu and having two daughters; Rakhi & Arti but the whereabouts of her husband Billu is not known since 2008 and she has lodged a complaint with the Police (Annexure-R).
9. The Appellant/Claimant has stated that her parents; Ambu Lal & Santosh, were having three Jhuggis, out of which, two were single storey Jhuggis and bearing same number i.e. Jhuggi No. B-10/H-12 but different Survey Numbers whereas the third was a double storey Jhuggi and it was bearing Jhuggi No. B-10/12. The double storey Jhuggi was having two rooms on each floor and a pucca staircase was constructed outside in the gali and it was used for going to the upper floor.

Single storey Jhuggi No. B-10/H-12 bearing Survey No. 1438

10. The Appellant/Claimant has stated that her parents; Ambu Lal & Santosh along with the family of Amit were living in the single storey Jhuggi No. B-10/H-12 bearing Survey No. 1438 and regarding that, DDA has made allotment in favour of her mother Santosh and all of them have


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shifted to the Transit Camp, Anand Parbat. These facts are not disputed by DDA.

Single storey Jhuggi No. B-10/H-12 bearing Survey No. 1439

11. The Appellant/Claimant has stated that her brother Subhash along with her wife Puja and all the four children is living in the single storey Jhuggi No. B-10/H-12 bearing Survey No. 1439 and regarding that DDA has made allotment in favour of his brother Subhash and he along with his family has shifted to the Transit Camp, Anand Parbat. These facts are not disputed by DDA.


Double storey Jhuggi No. B-10/12 bearing Survey No. 296 - Ground floor

12. The Appellant/Claimant has stated that her sister Meena along with her family was living on the ground floor of the double storey Jhuggi No. B-10/12 bearing Survey No. 296 and regarding that DDA has made allotment in favour of her sister Meena and she along with her family has shifted to the Transit Camp, Anand Parbat. These facts are not disputed by DDA.

Double storey Jhuggi No. B-10/12 bearing Survey No. N-4112- First floor

13. The Appellant/Claimant has stated that she along with her husband Billu and both the children; Rakhi & Arti was living on the first floor of the double Jhuggi bearing Jhuggi No. B-10/H-12 bearing Survey No. N4112. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi and regarding that DDA has made provisional allotment in his favour subject to final approval by Eligibility Determination Committee on merit and had issued DS No. 03069 dated 08.02.2016 (Annexure-A) in her favour. The Verification Slip dated 09.02.2017 (Annexure-B) was also issued and further, Tripartite Agreement (Annexure-C) dated 09.02.2017 was also executed. The Appellant/Claimant has also submitted an Affidavit dated 09.02.2017 (Annexure-E) thereby giving an undertaking that if any fact/document is/are found to be false/forged, then her provisional allotment is liable to be cancelled. The Appellant/Claimant had accordingly shifted to Transit Camp, Anand Parbat after DDA has made provisional allotment in her favour.
14. The Appellant/Claimant has stated that subsequently her claim was placed before the Eligibility Determination Committee for final approval but her claim was rejected on the ground that she was not having a separate Ration Card which was a mandatory document for the dweller claiming allotment against the upper floor, in spite of the fact that she was having all the requisite documents and further DDA had issued DS No. 03069 dated 08.02.2016 (Annexure-A), Verification Slip dated 09.02.2017 (Annexure-B) in her favour and Tripartite Agreement


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dated 09.02.2017 (Annexure-C) was also executed favour and aggrieved by the same, the Appellant/Claimant has filed the Appeal No. 237 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-S, in support of her claim and prayed that DDA be directed to make allotment in her favour.

15. DDA has furnished the survey record along with two video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 07.05.2024 wherein the Appellant/Claimant has stated that the first video clip pertains to the Jhuggi No. B-10/H-12 bearing Survey No. 1438 in which the Jhuggi is clearly seen to be a single storey pucca structure and having roof made with asbestos sheet and further, her mother Santosh is seen and getting the survey conducted and her room & kitchen are also seen and further, on the front wall of the Jhuggi "DDA No. 1438" is clearly seen to have been written. The second video clip pertains to the Jhuggi No. B-10/H-12 bearing Survey No. 1439 in which her brother Subhash is seen and his Jhuggi is seen to be a single storey structure having roof made with asbestos sheet and his room & kitchen are also seen and further, "DDA No. 1439" is clearly seen to have been written on the front wall of the said Jhuggi. However, the video of the double storey Jhuggi No. B-10/12, namely the Jhuggi on the ground floor of her sister Meena as well as the video clip of the first floor of the Jhuggi of the Appellant/Claimant are not available.
16. However, no video clip of the double storey Jhuggi bearing No. B-10/12 is made available by DDA and for that the Appellant/Claimant cannot be blamed. It is also pointed out that DDA has placed survey records as well as the Note of EDC dated 20.02.2020 (Annexure-S) on file in which it is mentioned that the Jhuggi of the Appellant/ Claimant was found to exist on the first floor thereby showing that DDA has nowhere disputed about the existence of the Jhuggi of the Appellant/ Claimant on the first floor bearing Jhuggi No. B-10/12 bearing Survey No. N-4112 . The material placed on file accordingly shows that the Jhuggi No. B-10/12 Survey No. N-4112 of the Appellant/ Claimant was found to be separate dwelling unit and the Appellant/ Claimant along with her family was living separately & independently on the first floor of the said Jhuggi on the cutoff date of 01.01.2015 and it was used for residential purposes.

REJECTION OF REPRESENTATION BY EDC VIDE ORDER DATED 31.10.2019

17. Now we shall appraise the material placed on file to show as to how the EDC had proceeded to deal with the claim and more particularly as to whether it was swayed by irrelevant matter or


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it has determined the claim of the Appellant/ Claimant fairly & independently.

18. It is not disputed that the claim of the Appellant/ Claimant was placed before the Eligibility Determination Committee (hereinafter called EDC). It is pertinent to point out that the claim of the Appellant/ Claimant was rejected by EDC on 20.02.2020 and the Nodal Officer, Kathputli Colony, duly communicated its order bearing No. F/KPC (N-4112)13/Survey/LM/WZ/4203 dated 10.11.2021 to the present Appellant/Claimant and the note of the EDC dated 20.02.2020 (Annexure-S) is reproduced for better understanding of the facts and the grounds on which the claim of the present Appellant/ Claimant was rejected, as under: -

EDC Note dated 20.02.2020 (Annexure-R)


"1. While examining the present case for determination of eligibility, it was observed that there was some deficiency in the requisite documents as per policy guidelines. In this regard deficiency /call letter dated 18.04.2019 was issued to the applicant/ claimant requesting for submission of required documents. Further, a final notice dated 18.01.2020 was also served to the applicant/ claimant to give him/her an opportunity for submission of required documents. The applicant failed to submit the documents in spite of final opportunity. As per survey record, the applicant jhuggi existed on first floor and the policy guidelines for alternate allotment in cases of first floor is as under:

2. As per policy guideline Part -B para 10 of the eligibility criteria for allotment of alternative dwelling units to the J dwellers. "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.

3. The applicant/ claimant has failed to submit separate ration card which is mandatory for determining eligibility in cases of upper floors. Hence, the applicant/claimant does not fulfil the eligibility criteria. **The applicant/ claimant is found ineligible for alternative allotment."**

19. The survey records placed on file shows that the Jhuggi of the Appellant/ Claimant was found to exist on the first floor bearing Jhuggi No. B-10/12 Survey No. N-4112 but her claim was rejected by EDC on 20.02.2020 on the sole ground that she was not having separate Ration Card, which was mandatory document for the dwellers claiming allotment from DDA against the upper floor. The bare perusal of the Note dated 20.02.2020 (Annexure-S) also shows that it is no where disputed by DDA as far as the existence of the Jhuggi of the Appellant/ Claimant on the first floor bearing Jhuggi No. B-10/12 Survey No. N-4112 and the Appellant/ Claimant along with her family living there separately & independently and using it for residential purposes is


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concerned but her claim was rejected on the sole ground that she was not having separate Ration Card inspite of the fact that she is claiming allotment against the first floor bearing Jhuggi No. B-10/12 Survey No. N-4112 . The requirement of separate Ration Card for the dwellers claiming allotment against the first floor shall be discussed in detail by us in the later part of this order. Thus the fact remains that the Appellant/ Claimant was having a separate dwelling unit on the first floor bearing Jhuggi No. B-10/12 Survey No. N-4112 and she was having all the requisite documents except the separate Ration Card.

20. There is nothing to disbelieve the statement of the Appellant/Claimant as it has been corroborated by the survey records prepared by the survey team of DDA as well as reflected in the EDC Note 20.02.2020 (Annexure-S) and accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-10/12 was a pucca & an old construction and it was very much in existence much prior to the cutoff date of 01.01.2015 and both the floors were different dwelling units and further her her sister Meena along with her family, was living on the ground floor and it was a separate dwelling unit bearing Jhuggi No. B-10/12 bearing Survey No. 296 and regarding that DDA has made allotment in favour of her sister Meena whereas the Appellant/ Claimant along with her family was living separately & independently on the first floor of the said Jhuggi on the cutoff date of 01.01.2015 and it was bearing Jhuggi No. B-10/12 Survey No. N-4112 and the Appellant/ Claimant was using the said Jhuggi for residential purposes.
21. Accordingly, we have no hesitation in holding that the Appellant/ Claimant along with her family was living separately & independently on the first floor of Jhuggi No. B-10/12 Survey No. N-4112 on the cutoff date of 01.01.2015 and the Appellant/ Claimant was using the said Jhuggi for residential purposes.
22. 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 of Jhuggi No. B-10/12 Survey No. N-4112 as per the policy guidelines issued by DDA.
23. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-S, in support of her claim and prayed that DDA be directed to make allotment in her favour against the first floor


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of Jhuggi No. B-10/12 Survey No. N- 4112.

24. 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 cutoff 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 cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff 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. Accordingly, there is no illegality in the impugned rejection order bearing No. F/KPC (N-4112)13/Survey/LM/WZ/4203 dated 10.11.2021.
25. 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


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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 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."

26. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or


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have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMENTS OF DOCUMENTS

27. As per Clause 1 (6) Part-B 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 in Clause 2. 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 one of the documents out of list of 12 documents.
28. Thus the bare perusal of the Policy shows that for claiming allotment against the **ground floor** the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff 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 and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.


FIRST FLOOR - REQUIREMENTS OF DOCUMENTS

29. As already pointed out above, condition contained in Clause 1 (10) of Part-B 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."

30. Thus Clause 1 (10) of Part-B 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. Therefore, the dweller, who is not having ration card, will not be eligible for allotment even if he possesses any one of the documents out of list of 12 documents.


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31. Thus the bare perusal of the Policy shows that for claiming allotment against the first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff 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 and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against the upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

32. The bare perusal of the Policy shows that different criterion has been provided for the JJ dwellers claiming alternative allotment against the ground & first floors in the DDA policy because the dweller, who is claiming allotment against the ground floor, has been given an option to have any one out of the 12 documents⁹ (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming allotment against the upper floor, to have a ration card issued before the cutoff date of 01.01.2015. Dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor so on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. But both are required to be treated on parity irrespective of that whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

33. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the point of ration card was not discussed. Therefore, this Appellate Authority changed its view by taking a conservative approach on the


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requirement of ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and have decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

34. Now the matter has been settled by way of judicial pronouncement as the legality of requirement of a Ration Card as a mandatory document for the dwellers claiming allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the Hon'ble High Court of Delhi in the case of "**Mohammad Hakam and Another versus Delhi Development Authority**" in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022".
35. The facts of the Mohammad Hakim's case (supra) are that the claim of Petitioner No. 1 (before the Hon'ble High Court) was rejected by the EDC and aggrieved by the same he had filed Appeal No. 61 of 2017/04/2017 before this very Appellate Authority and his appeal was allowed by this Appellate Authority vide order dated 30.01.2019 thereby holding that he fulfills the eligibility criteria as per the guidelines issued by DDA, however, the EDC has wrongly and illegally rejected his claim and accordingly DDA was directed to make allotment in his favour with respect to Jhuggi No. E-278, Kathputli Colony. But the order of the Appellate Authority dated 30.01.2019 was set aside by the Administrative Department of DDA and aggrieved by the same Petitioner No. 1 has filed Writ Petition bearing No. W.P. (C) 1585/2022 before the Hon'ble High Court of Delhi. Similarly, the claim of Petitioner No. 2 (before the Hon'ble High Court) was rejected by the EDC and aggrieved by the same he had filed Appeal No. 40 of 2017 before this very Appellate Authority and his appeal was allowed by this Appellate Authority vide order dated 17.08.2018 thereby holding that he fulfills the eligibility criteria as per the guidelines issued by DDA because it was held that the applicant had applied for issuing separate ration card but the concerned authority had refused to issue a separate ration card because of policy of the concerned Food Department and not due to any default or inaction or lapse on his part and thus he had explained the reasons of non issuance of separation card by the Food & Civil Supply Department in his individual name pertaining to the first floor of the Jhuggi in question even though he was living separately & independently, however, the EDC has wrongly and illegally


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rejected his claim and accordingly DDA was directed to make allotment in his favour with respect to Jhuggi No. E-81, Kathputli Colony. But the order of the Appellate Authority dated 17.08.2018 was set aside by the Administrative Department of DDA and aggrieved by the same Petitioner No. 2 has filed Writ Petition bearing No. W.P. (C) 1585/2022 before the Hon'ble High Court of Delhi. Similarly, the claim of Petitioner No. 3 (before the Hon'ble High Court) was rejected by the EDC and aggrieved by the same he had filed Appeal No. 01 of 2017 before this very Appellate Authority and his appeal was allowed by this Appellate Authority vide order dated 19.07.2018 thereby holding that he fulfills the eligibility criteria as per the guidelines issued by DDA because it was held that the applicant had explained the reasons of non issuance of separation card by the Food & Civil Supply Department in his individual name pertaining to the first floor of the Jhuggi in question even though he was living separately & independently, however, the EDC has wrongly and illegally rejected his claim and accordingly DDA was directed to make allotment in his favour with respect to Jhuggi No. B-643, Kathputli Colony. But the order of the Appellate Authority dated 19.07.2018 was set aside by the Administrative Department of DDA and aggrieved by the same Petitioner No. 3 has filed Writ Petition bearing No. W.P. (C) 2514/2022 before the Hon'ble High Court of Delhi. Both the Writ Petitions bearing W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022" were consolidated. However, pursuant to the filing of the writ petition the case of the petitioner No. 1 was re-examined and reviewed by the competent authority of DDA and it was found that his case was inadvertently recommended for 'non-acceptance' by the competent authority due to mixing of his records with other 62 cases, therefore, DDA rectified its mistake by withdrawing the impugned letter of rejection and granting the relief as sought by him in the writ petition. But the relief claimed by the respondent No. 2 & 3 was contested on merit and was decided on 29.02.2023 by **the Hon'ble High Court of Delhi whereby the decisions of the Appellate Authority was upheld thereby setting aside the impugned orders passed by the Administrative Department/Nodal Officer of DDA** wherein it has been held as under: -

"81. In this backdrop, this Court deems it apposite to discuss the concept of Ration card and the aim of issuing the same.

82. The term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System.


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83. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder.

84. Moreover, this Court shall now peruse the Para 4(6) of Gazette notification No. G.S.R. 104(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution which disallows the use of ration card as a document of identity or proof of residence. The relevant extract has been reproduced herein below:

"4. Ration Cards.-

XXX

(6) Ration card shall not be used as a document of identity or proof of residence."

85. Hence, ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism setup by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card.

86. The aim of the ration card is to ensure that the citizens of this country are provided foodgrains at a reasonable price. Hence, it is not reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System.

87. Therefore, the respondent has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed gazette notification, definition of ration card as well as the intent behind issuance of the same.

88. Furthermore, in the instant petition the petitioners contended that they have applied for Ration Cards, however, they have not been issued the same by the Competent Authority. In this regard, the Court shall discuss the order of the Coordinate Bench of this Court in writ petition bearing no. **Shanti Devi vs Union of India**¹ wherein the petitioner applied for the ration card in the year 2013 (8 years before), however, she was not issued the same for the last 8 years, despite giving several representations. The afore discussed order has been reproduced herein below:

"1. The petitioner, who claims to be falling within the category of persons Below Poverty Line (BPL)" has approached this Court with the grievance that despite repeated representations made by her, she has not been issued a ration card for the last eight years.

2. On the last date, Mr. Narayan, learned counsel for respondent nos.2 to 4 was granted time to obtain instructions. Today, he submits that no ration card could be issued to the petitioner as the limit for issuance of 72 lakh ration cards set by


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respondent no. 1, based on the Census of 2011, already stands exhausted and therefore, the respondents nos.2 to 4 cannot be faulted for not having issued a ration card to the petitioner."

89. In view of the aforesaid order, it is pertinent to note that ration cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limit for issuance of Ration Card has already been exhausted, therefore, even if a person is eligible to be issued Ration Card, he/ she shall not be issued the same.

90. Hence, in light of the aforesaid submissions by the learned counsel for the Delhi Government in the aforesaid writ petition, this Court is of the considered view that the contention of the petitioners in the instant batch of petitions regarding non- issuance of Ration Card holds water.

91. Keeping in mind the aforesaid circumstances, this Court is of the view that mere non-issuance of a Ration Card cannot be a ground for denial of the alternative allotment to the petitioners. The respondent should have introspected into the issue and accordingly, should have taken step to alleviate issues faced by the poor dwellers of the Kathputali Colony.

92. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Moreover, it is responsibility of the respondent that they should have introspected into the intent and motive behind issuing of the Ration Card which is distribution of food through Public Distribution System.

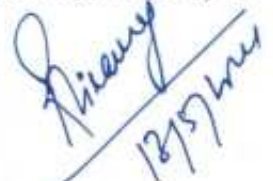
93. Therefore, the requirement of a Ration Card as mandatory document to be produced before the respondent as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. The respondent should have exercised due caution and care before adhering to such a requirement. It should take a fair and realistic view of the circumstances before it.

94. The respondent should introspect on the fact that how much harassment and pain must have been caused to the petitioners due to such arbitrary requirements. The afore discussed actions of the respondent is in clear violation of the petitioners' right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of this Court in the judgment of **Udal v. Delhi Urban Shelter Improvement Board and Ors² 2017 SCC OnLine Del 9715** as follows:

"15. It is trite that the right to housing is an essential part of Right to Life and a fundamental right ensured by Article 21 of the Constitution of India. It has also been held that the right to life is not right to merely an animal existence but an entitlement to reasonable accommodation (Ref.: (1996) 2 SCC 549, Chameli Singh v. State of U.P. and (1990) 1 SCC 520, Shantistar Builders v. Narayan Khimalal Totame). The contours of this right were further expanded by a


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pronouncement of the Supreme Court reported at (1997) 11 SCC 121, *Ahmadabad Municipal Corporation v. Nawab Khan Gulab Khan* wherein the court held that when slum dwellers have been residing at a place for some time, it became the duty of the government to make schemes for housing these jhuggi dwellers. Relying on the principles laid down in these judgments, this court in 168 (2010) DLT 298, *Sudama Singh v. Government of Delhi* has relied upon the provisions of the Delhi Master Plan and emphasized in-situ rehabilitation of the slum dwellers.

16. Judicial notice can be taken of the fact that the National Capital Territory of Delhi attracts people, especially poor people, from all over the country who come to the city in search of work and must reside reasonably near to their place of work. In recognition of the responsibility to house the poor in a permanent humane manner, the Government of NCT of Delhi announced "Delhi Slum and JJ Rehabilitation and Relocation Policy, 2015". Under Clause 2(a), Delhi Urban Shelter Improvement Board („DUSIB" hereafter) was appointed as the nodal agency for implementation of the policy."

95. Accordingly, this Court is also of the view that the petitioners' right to housing shall be kept at the highest pedestal. It is one of the safeguards provided in our Constitution and the legacy has been carried forward by the writ Court by way of various judicial precedents which reiterates the same.

96. In the instant petitions, the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over quasi-judicial matters already adjudicated upon by the appellate authority. This aforesaid act of the Nodal officer of the respondent underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petition are set-aside.


97. The decision of the appellate authority is upheld which held that the petitioners are in possession of other documents as stipulated by Clause 2 of the Policy as well as the aforesaid documents are issued before the cut-off date, hence, the petitioners are entitled for an alternative dwelling unit and their claims shall be admitted by the respondent.

98. Accordingly, this Court holds that the impugned orders passed by the Nodal Officer of the respondent are liable to be set-aside.

CONCLUSION

99. The afore-discussed actions of the respondent, ostensibly operating within the framework of legality, struck at the heart of justice, undermining the very principles upon which the judicial system purportedly stands. Subsequent to the petitioners' challenge of the initial rejection, the issuance of a second letter of rejection by the respondent


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compounded the petitioners' anguish. This second rejection purportedly cited new reasons for denial, yet failed to withstand scrutiny in light of legal precedents previously established by the writ Courts and of particular note was the justification provided by the respondent for the second rejection, namely, the purported non-filing of a ration card by the petitioner. Such a justification, given the petitioner's provision of alternative legal proofs of identity consistent with statutory requirements and prior judicial interpretation, underscored the arbitrary nature of the respondent's actions.

100. The petitioner's distress, exacerbated by the respondent's actions, exemplified the inherent flaws within the legal system, which too often favours the powerful over the marginalized. The respondent's actions, shielded by the veneer of legality, served to perpetuate systemic injustices, leaving the petitioners vulnerable.

101. The Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the jhuggis there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the jhuggis especially in the light of the paragraph no. 4(6) of Gazette Notification No. G.S.R. 104(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution which disallows the use of ration card as a document of identity or proof of residence. Moreover, the intent of issuance of Ration Card is distribution of essential food items by Public Distribution System and hence, it does not intend on being used as an identity proof or an address proof.

102. Hence, the Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 (PART-B) has wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card.

103. This Court is of the view that the respondent shall consider other documents issued before the cut-off date i.e., 1st January 2015 as enlisted in Clause 2 of The Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 (PART-B) which are as follows: Passport, 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 (except EPIC), Pass book issued by Public Sector Banks/ Post Office with photograph, SC/ST/OBC Certificate issued by the Competent Authority Pension document with photograph such as Ex-serviceman's Pension Book, Pension Payment Order, Ex-serviceman widow/dependent certificate, old age pension order or widow pension order, Freedom Fighter Identity Card with photograph, Certificate of physically handicapped with photograph issued by the Competent Authority, Health Insurance Scheme Smart card with photograph (Ministry of Labour scheme, Identity card with photograph issued in the name of the descendants) of the slum dweller from a Government school or Certificate with photograph issued by the Principal of a Government School mentioning therein that the descendants) of the JJ dweller is/was the student of the school.


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104. In view of the aforesaid discussion, the impugned orders dated 3rd July 2020 in both writ petitions are quashed by this Court by way of exercising its jurisdiction vested under Article 226 of the Constitution of India. Accordingly, the instant petitions are allowed.


105. This Court directs the respondent to allocate an alternative dwelling unit in favor of the petitioners subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of The Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 (PART-B) issued before the cut-off i.e., 1st January 2015, the deposit of amount as stipulated by the respondent as well as any other requirement as mandated by the respondent.

106. Accordingly, the instant petitions alongwith pending applications, if any, are disposed of.

107. The judgment to be uploaded on the website forthwith."

36. The Hon'ble High Court had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) OF Gazette Notification No. G.S.R. 104(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.
37. It is further held that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.


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38. It was also pointed out that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separation card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.
39. It is further held that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The decision of the Appellate Authority were upheld, which held that the petitioners were in possession of other documents as stipulated by Clause 2 of the Policy as well as the aforesaid documents are issued before the cut-off date, hence, the petitioners were held entitled for an alternative dwelling unit and their claims shall be admitted by the respondent/DDA and accordingly, the impugned orders passed by the Nodal Officer of the DDA were set aside.


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40. Therefore, the facts of the present appeal are squarely covered by the facts of the Mohammad Hakim's case (supra) wherein the Hon'ble High Court of Delhi has held that the DDA policy as per Clause (1) (x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggis there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis and it has been held that the DDA policy, 2015 (PART-B) has wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered.
41. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor. In view of our discussion above, the bare perusal of the DDA Policy 2015 in the light of judgment in Mohammad Hakim's case (supra) shows that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & 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 and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

GIST OF THE POLICY


42. In the light of our discussion above, we shall now appraise the material placed on file by 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 and whether she possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the first floor of Jhuggi No. B-10/12 Survey No. N-4112 as per the policy guidelines issued by DDA.



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43. Here it is pertinent to mention that the Appellant/ Claimant has sought alternate allotment under insitu Slum Redevelopment policy against the first floor of Jhuggi No. B-10/12, Kathputli Colony as per the policy guidelines issued by DDA. The survey was conducted in respect of the said Jhuggi and the documents, i.e., Voter ID Card & Aadhar Card etc. relating to the Appellant/ Claimant & her family members, which were furnished by the Appellant/ Claimant, were also got verified and all the materials including video clips were placed before the Eligibility Determination Committee but it has rejected the claim of the present Appellant/ Claimant and the same was communicated to the Appellant/Claimant by the Nodal Officer, KPC, vide Rejection Order dated 10.11.2021 whereby the reasons for rejection is mentioned to be **"UPPER FLOOR JHUGGI as per policy guidelines separate Ration card is required"**. This shows that the claim of the Appellant/Claimant was rejected on the sole ground that she was not having separate Ration Card, thereby, showing that DDA has not disputed about the existence of Jhuggi of the Appellant/Claimant on the first floor bearing Jhuggi No. B-10/12 on the cutoff date of 01.01.2015 and using the said Jhuggi for residential purposes and further she was also having all other requisite documents and making compliance of all other mandatory conditions except that she was not having separate Ration Card. Therefore, 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, on the cutoff date of 01.01.2015.
44. The Appellant/Claimant has tendered her Voter ID Card No. SMM 1301910 (Annexure-F), Aadhar Card (Annexure-G), PAN Card (Annexure-M), Voter List of the year 2012 (Annexure-O), Voter List of the year 2013 (Annexure-P) and Voter List of the year 2015 (Annexure-Q).
45. It is pointed out that the Voter ID Card No. SMM 1301910 (Annexure-F) of the Appellant/Claimant has been issued on 22.02.2009, much prior to the Cutoff date of 01.01.2015. The Appellant/Claimant has tendered her Aadhar Card (Annexure-G) bearing No. 8464 1817 7985, has been issued on 16.01.2012, much prior to the Cutoff date of 01.01.2015. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 87 in the Voter List of the year 2012, at Sl. No. 87 in the Voter List of the year 2013 (Annexure-P) & at Sl. No. 100 in the Voter List of the year 2015 (Annexure-Q). It is pointed out that in all the Voter Lists (Annexure-O to Annexure-Q), the number of the Voter ID Card of the Appellant/Claimant has been mentioned to be SMM 1301910 and further, in all the documents (Annexure-F, Annexure-G & Annexure-O to Annexure-Q), the address of the Appellant/Claimant is mentioned to be B-


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10/12, Kathputli Colony, regarding which she is claiming allotment from DDA. Therefore, the material placed on file shows that the Appellant/Claimant was having Aadhar Card and also a valid Voter ID 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 and 2015, therefore, the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

46. It is pointed out that in **Udal v. Delhi Urban Shelter Improvement Board and Ors² 2017 SCC OnLine Del 9715** the Hon'ble High Court of Delhi has found that the petitioners have produced the documents, including the National Food Security Card, Ration Card, Gas/Oil Bill, Electricity Bill, BSES Meter Change Report, School Leaving Certificates, School Progress Report of Children, Report Card of Children, Aadhar Cards, Driving Licences, Passbooks, PAN Card, Death Certificate of the Spouse of one of the parties, LIC Policy but they could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy. The Hon'ble High court held as under: -

"33.Therefore, even though these petitioners could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy, however, if an holistic view is undertaken of the documentation as produced, it would amply establish the residence and existence of these persons at the Rajiv Camp for the periods from 1998 till 2016."

"38. Mr. Parvinder Chauhan, Id. Standing Counsel for respondent no.1 has staunchly contended that the requirement of Clause 1(iii) of Part-B of R& R Policy to the effect that the name of the person must feature in the electoral roll for any of the prescribed five years, is mandatory and the failure for the name to appear in such electoral roll must be fatal so far as consideration for allotment of alternative flat for rehabilitation under the R&R Policy is concerned. In the given facts and circumstances, we are unfortunately unable to agree with this submission. The records placed by these persons include National Food Security Cards, Ration Cards, Oil/Gas Bill, SC/ST Certificates, Electricity Bill, LIC Policies, Gas Connection Records and Bills, Driving Licences, Passbooks, Birth Certificate of Children as well as records of School Admission of Children, their Progress Report Cards, all of which show their continued existence on the spot. A realistic view has to be taken in this regard. We find that the persons who were found ineligible were in possession of public identification including Voter ID - cards. The failure of the names

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of such persons to feature in the electoral roll could be for any number of reasons. The same could happen, if the person was not at home at the time the Booth Level Officer visited Jhuggi of the person concerned. This could be on account of the occupation of the person or for the person and adults of the family having left the Jhuggi for work. Obviously, the Booth Level Officer or any persons conducting the survey would not have met the adult members of the family. There would thus not be any adult members of the family to give the information for names to be included in the electoral rolls."

"40. We find that as per Clause 2 of PART - B of the R&R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents. In the above cases, the Jhuggi Jhopri dwellers have produced multiple records ranging to periods in the late 1990s till date. In this view of the matter, the persons detailed in paras 37 and 38 above are clearly entitled to the benefit of the policy. We are of the view that the ineligibility letter dated 22nd December, 2016 by the respondents have been issued to these persons because of a disjoint reading of Clause 1(iii) and Clause 2 of PART - B of the policy. The same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1(iii) and Clause 2 of Part-B of the R&R Policy, 2015."

47. Therefore, the present appeal is squarely covered by the facts of Udal's case (supra) decided by the Hon'ble High Court of Delhi wherein it has been held that as per Clause 2 of PART-B of the R & R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents and we cannot give a disjoint reading of Clause 1 (iii) and Clause 2 of PART - B of the policy but the same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1 (iii) and Clause 2 of PART-B of the R & R Policy, 2015.
48. On this aspect it is pertinent to point out that when the Jhuggi of the Appellant/Claimant is found to exist on the cutoff date of 01.01.2015 and she is also found to be having a Aadhar Card and also a valid Voter ID Card on the cutoff date of 01.01.2015 and his name also appears in the voter list of the year's 2012, 2013 and 2015 and also she possesses any one document out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 then her claim can not be rejected by taking hyper technical view especially when she was having a valid Voter ID Card dated 22.02.2009 (Annexure-F) on the cutoff date of 01.01.2015 and further



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her name also appears in the voter list of the year 2012 (Annexure-O), in the Voter List of the year 2013 (Annexure-P) and in the Voter List of the year 2015 (Annexure-Q) and she as well his family are having documents to show that they have been living in the said Jhuggi much prior to the cutoff date of 01.01.2015.

49. Now we shall appraise the material placed on file to determine as to whether there are documents placed on file to shows that the Appellant/Claimant along with her family was living in Jhuggi No. B-10/12 Survey No. N-4112 since long and more particularly on the cutoff date of 01.01.2015 and whether they have got the documents issued in their favour prior to the cutoff date of 01.01.2015 to lent support to the claim put forward by the Appellant/Claimant.
50. The Appellant/Claimant has tendered Voter ID Cards & Aadhar Cards belonging to her and family members as well as Electoral Rolls, No Dues Certificate & Electricity Bill, e-SHRAM Card & Bank Passbook and all these documents have been issued much prior to the cutoff date of 01.01.2015 and it accordingly amply establishes that she as well as her family members have been living on the first floor of the double storey Jhuggi No. B-10/12 Survey No. N-4112, Kathputli Colony, since long and more particularly on the cutoff date of 01.01.2015 and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.
51. The Appellant/Claimant has tendered the No Dues Certificate (Annexure-D), Electricity Bill (Annexure-H), Ration Card bearing No. 077004184600 (Annexure-I), Aadhar Card (Annexure-J) of her daughter Arti, Passbook of Corporation Bank (Annexure-K), Passbook of Syndicate Bank (Annexure-L) & her e-Shram Card (Annexure-N) in support of her claim.
52. It is pointed out that the No Dues Certificate (Annexure-D) dated 18.02.2019 issued by Tata Power-DDL & Electricity Bill (Annexure-H) shows that the Appellant/Claimant had taken the electricity connection on 23.02.2016 on the address of the Jhuggi No. B-10/12, regarding which she is claiming allotment from DDA. The Ration Card No. 077004184600 (Annexure-I) has been issued in favour of her mother Santosh and the name of the Appellant/Claimant has been mentioned therein but the date of issuance is not mentioned. The Passbook (Annexure-K) of Corporation Bank shows that the account has been opened by her daughter Rakhi on 18.01.2013 and the Passbook (Annexure-L) of Syndicate Bank shows that the account has been opened by the Appellant/Claimant on 10.10.2006, and both the accounts were opened much prior to the Cutoff date of 01.01.2015. The Aadhar Card (Annexure-J) of Arti bearing No. 3329



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6299 6011 has been issued on 22.01.2012, much prior to the Cutoff date of 01.01.2015. The e-SHRAM Card (Annexure-N) has been issued in favour of the Appellant/Claimant but the date of issuance is not mentioned therein. It is also pointed out that in all the above referred documents, Annexure-D, Annexure-H, Annexure-J to Annexure-L & Annexure-M, the address is mentioned to be B-10/12, Kathputli Colony, regarding which the Appellant/Claimant is claiming allotment from DDA. It is pointed out that all these documents pertain to the family members of the Appellant/Claimant and have been issued much prior to the Cutoff date of 01.01.2015 on the address of the Jhuggi No. B-10/12, Kathputli Colony, regarding which the Appellant/Claimant has been claiming allotment from DDA. These documents also corroborate that the Appellant/Claimant along with her family members was living in the Jhuggi No. B-10/12 Survey No. N-4112 since long and much prior to the Cutoff date of 01.01.2015.

53. This shows that the Appellant/Claimant has tendered Voter ID Cards & Aadhar Cards belonging to her and that of her family members, as well as Electoral Rolls, No Dues Certificate & Electricity Bill, e-SHRAM Card & Bank Passbook and all these documents have been issued from 2009 to 2015 and it accordingly amply establishes that she as well as her family members have been living on the first floor of the double storey Jhuggi No. B-10/12, Kathputli Colony, since long and more particularly on the cutoff date of 01.01.2015.
54. As per our discussion above, the Appellant/Claimant has placed on file cogent materials on file to show that she along with her family was living on the first floor of the double storey Jhuggi No. B-10/12 since long and more particularly on the cutoff date of 01.01.2015 and that is why the Appellant/Claimant had got her Voter ID Card (Annexure-F) & Aadhar Card (Annexure-G) issued on the address of Jhuggi No. B-10/12 much prior to the cutoff date of 01.01.2015 and further the Aadhar Card (Annexure-J) of her daughter Arti has also been issued on the address of Jhuggi No. B-10/12 much prior to the cutoff date of 01.01.2015. The e-SHRAM Card (Annexure-N) has been issued in favour of the Appellant/Claimant on the address of Jhuggi No. B-10/12 regarding which she is claiming allotment from DDA. The Appellant/Claimant has also been maintaining the bank account as per the Passbook of Syndicate Bank (Annexure-L) and her daughter Rakhi has also been maintaining the bank account as per the Passbook of Corporation Bank (Annexure-LK) on the address of Jhuggi No. B-10/12 and both the accounts were opened much prior to the cutoff date of 01.01.2015. The No Dues Certificate (Annexure-D) dated 18.02.2019 issued by Tata Power-DDL & Electricity Bill (Annexure-H) shows that the


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Appellant/Claimant had taken the electricity connection on 23.02.2016 on the address of the Jhuggi No. B-10/12, regarding which she is claiming allotment from DDA. This gives credence to the claim put forward by the Appellant/Claimant that she along with her family members was living on the first floor of the double storey Jhuggi No. B-10/12 since long and more particularly on the cutoff date of 01.01.2015.

55. The fact can not be lost that the Appellant/Claimant is having a valid Voter ID Card No. SMM 1301910 dated 22.02.2009 (Annexure-F), which has been issued much prior to the cutoff date of 01.01.2015 and it has been issued on the address of Jhuggi No. B-10/12 regarding which she has been claiming allotment from DDA. The Aadhar Card (Annexure-F) of the Appellant/Claimant is bearing number 8464 1817 7985 and it has also been issued on 16.01.2012, much prior to the cutoff date 01.01.2015 and further it has also been issued on the address of Jhuggi No. B-10/12 regarding which the Appellant/Claimant has been claiming allotment from DDA. Further, the name of the Appellant/Claimant appears at Sl. No. 87 in the Voter List of the year 2012, at Sl. No. 87 in the Voter List of the year 2013 (Annexure-P) & at Sl. No. 100 in the Voter List of the year 2015 (Annexure-Q) and in the Voter Lists the number of her Voter ID Card is mentioned to be SMM 1301910 and the address is mentioned to be Jhuggi No. B-10/12 regarding which she has been claiming allotment from DDA. Further the Aadhar Card (Annexure-J) of her daughter Arti has also been issued on the address of Jhuggi No. B-10/12 much prior to the cutoff date of 01.01.2015. The Passbook (Annexure-K) of Corporation Bank shows that the account has been opened by her daughter Rakhi on 18.01.2013 and the Passbook (Annexure-L) of Syndicate Bank shows that the account has been opened by the Appellant/Claimant on 10.10.2006, and both the accounts were opened much prior to the Cutoff date of 01.01.2015. In addition to that the documents (Annexure-D, Annexure-H, Annexure-I & Annexure-N) pertains to the Appellant/Claimant & her family members and all have been issued on the address of Jhuggi No. B-10/12 regarding which the Appellant/Claimant has been claiming allotment from DDA. This accordingly corroborates the statement of the Appellant/Claimant that she along with her family has been living on the first floor of the double storey Jhuggi No. B-10/12 much prior to the cutoff date of 01.01.2015. Furthermore, as per our discussion above, the statement of the Appellant/Claimant has been fully supported by survey records prepared by the survey team of DDA to show that the Jhuggi No. B-10/12, Kathputli Colony was a double storey structure and the Appellant/Claimant along with her family was living on the first floor of the said double storey Jhuggi and using the same for residential



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purposes. The material placed on file shows that the EDC has wrongly rejected the claim of the Appellant/Claimant on the sole ground that she was not having separate Ration Card inspite of the fact that she is claiming allotment from DDA against the first floor of the double storey Jhuggi No. B-10/12 bearing survey No. N-4112. The Appellant/Claimant has stated that she had applied for issuing of separate Ration Card but the concerned authority has refused to issue a separate Ration Card in favour of the Appellant/Claimant pertaining to the first floor of Jhuggi No. B-10/12. This shows that the Appellant/Claimant could not get a separate Ration Card issued in his favour pertaining to the first floor of Jhuggi No. B-10/12 because of policy of the concerned Food & Civil Supply Department and not due to any fault or inaction or lapse on part of the Appellant/Claimant. Hence this explains as to why the Appellant/Claimant could not get the separate Ration Card issued in her favour in spite of the fact that she was living separately & independently on the first floor of Jhuggi No. B-10/12 and as already pointed out in the survey records of DDA it is mentioned that the survey team has found that the Appellant/ Claimant was living separately & independently on the first floor of Jhuggi No. B-10/12 Survey No. N-4112 and this fact is duly reflected in the EDC Note (Annexure-S) . Furthermore, the fact cannot be lost sight that in view of Mohammad Hakim's case (supra) Ration Card is not a mandatory document for the dwellers claiming allotment from DDA against the first floor but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the DDA policy has to be considered. It is pointed out that the documents placed on file further corroborates the claim of the Appellant/ Claimant that she as well his family members were having all the requisite documents and she possess one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and accordingly the Appellant/ Claimant is entitled to claim allotment from DDA as per the policy guidelines issued by DDA. But the Eligibility Determination Committee without any basis had come to the wrong conclusion that the Appellant/ Claimant is not eligible to get alternative allotment on the sole ground that she was not having separate Ration Card inspite of the fact that she is claiming allotment from DDA against the upper floor and accordingly, the same is not sustainable in the eyes of law. It is pointed out that the documents placed on file further corroborates the claim of the Appellant/ Claimant that she as well her family members were having all the requisite documents as per the policy guidelines issued by DDA, therefore, the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

56. The Appellant/ Claimant has contended that her claim was ultimately rejected by the


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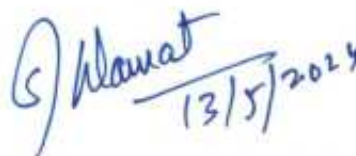

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Eligibility Determination Committee vide order dated 10.11.2021 in spite of the fact that much earlier to that DDA has made provisional allotment by issuing the DS No. 03069 dated 08.02.2016 (Annexure-A) & Verification Slip dated 09.02.2017 (Annexure-B) and Tripartite Agreement dated 09.02.2017 (Annexure-C) was also executed. but these facts were not duly considered by EDC. Accordingly, she has come before us thereby challenging the order of rejection dated 10.11.2021.

57. It is not disputed that DDA has made provisional allotment in favour of the present Appellant/ Claimant and had issued the DS No. 03069 dated 08.02.2016 (Annexure-A) & Verification Slip dated 09.02.2017 (Annexure-B) in her favour and Tripartite Agreement dated 09.02.2017 (Annexure-C) was also executed whereas her claim was finally rejected by the EDC on 10.11.2021. Now we shall consider as to what is the legal effect of the issuance of the DS No. 03069 dated 08.02.2016 (Annexure-A) & Verification Slip dated 09.02.2017 (Annexure-B) and execution of Tripartite Agreement dated 09.02.2017 (Annexure-C) and whether any right of allotment was created in favour of the Appellant/ Claimant merely by issuing DS etc. by DDA in her favour.
58. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly according to the merit of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey of 2010-2011 and of July 2017 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.
59. Now coming to the fact of the present case it is pertinent to point out that the bare reading of the Relocation-cum-Allotment Slip (DS) No. 03069 dated 08.02.2016 placed on file shows that the issuance of the DS No. 03069 dated 08.02.2016 (Annexure-A) & Verification Slip dated 09.02.2017 (Annexure-B) and execution of Tripartite Agreement dated 09.02.2017 (Annexure-C) was subject to fulfillment of terms and conditions of guidelines issued by DDA and this was subject to final scrutiny of eligibility of the Appellant/ Claimant by the Eligibility Determination Committee (EDC) as per the policy guidelines issued by DDA. Furthermore, The Appellant/



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Claimant had also submitted an Affidavit dated 09.02.2017 (Annexure-E) thereby giving an undertaking that if any fact/document is/are found to be false/fake, then her provisional allotment would be cancelled. Thus there is no doubt that DDA has made provisional allotment by issuance of the DS No. 03069 dated 08.02.2016 (Annexure-A) & Verification Slip dated 09.02.2017 (Annexure-B) and execution of Tripartite Agreement dated 09.02.2017 (Annexure-C) and this was subject to final scrutiny of eligibility of the Appellant/ Claimant by the Eligibility Determination Committee as per the policy guidelines issued by DDA and right of allotment was created in favour of the Appellant/ Claimant by issuing DS etc. but EDC has wrongly rejected the claim of the Appellant/ Claimant solely on the ground that she was not having separate Ration Card inspite of the fact that she was having all the requisite documents and fulfills the eligibility criteria as per the guidelines issued by DDA especially when there is no requirement of separate Ration Card for the dwellers claiming allotment against the upper floor in view of Mohammad Hakim's case (supra).

60. As already pointed out the statement of the Appellant/Claimant has been corroborated by the survey records prepared by the survey team of DDA as well as reflected in the EDC Note (Annexure-S) and accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-10/12 was a pucca & an old construction and it was very much in existence much prior to the cutoff date of 01.01.2015 and both the floors were different dwelling units and further her sister Meena W/o Kishor, was living on the ground floor and it was a separate dwelling unit bearing Jhuggi No. B-10/12 survey No. 296 and regarding that DDA has made allotment in favour of Meena W/o Kishor whereas the Appellant/ Claimant along with her family was living separately & independently on the first floor of the said Jhuggi on the cutoff date of 01.01.2015 and it was bearing Jhuggi No. B-10/12 Survey No. N-4112 and the Appellant/ Claimant was using the said Jhuggi for residential purposes. It is pertinent to point out that DDA has not disputed about the existence of Jhuggi of the Appellant/Claimant on the first floor bearing Jhuggi No. B-10/12 Survey No. N-4112 but her claim was rejected wrongly by the EDC on the sole ground that she was not having separate Ration Card. The material placed on file shows that the Appellant/ Claimant along with her family was living separately & independently on the first floor of Jhuggi No. B-10/12 Survey No. N-4112 and further as per our discussion above, the documents placed on file shows that the Appellant/Claimant was having a valid Voter ID Card & Aadhar Card on the cutoff date of 01.01.2015 and her name also appears in the voter lists of the year's 2012, 2103 & 2015 and furthermore, the documents placed on file also corroborates


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that the Appellant/Claimant along with her family was living on the first floor of Jhuggi No. B-10/12 Survey No. N-4112 regarding which she is claiming allotment from DDA. Furthermore, DDA has made provisional allotment by issuance of the DS No. 03069 dated 08.02.2016 (Annexure-A) & Verification Slip dated 09.02.2017 (Annexure-B) and execution of Tripartite Agreement dated 09.02.2017 (Annexure-C) and right of allotment was created in favour of the Appellant/ Claimant by issuing DS etc. In the light of our detailed discussion, we have no hesitation in holding that the Appellant/ Claimant was having all the requisite documents and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

61. 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 policy guidelines issued by DDA. But the Eligibility Determination Committee has wrongly and illegally rejected her claim. Hence the present appeal No. 237 of 2023 stands allowed, hereby, setting aside the impugned order communicated vide order bearing No. F/KPC (N-4112)13/Survey/LM/WZ/4203 dated 10.11.2021 issued by the Nodal Officer, Kathputli Colony. DDA is hereby directed to make alternative allotment in favour of Appellant/ Claimant, Deepali W/o Billu, in respect of the first floor of Jhuggi No. B-10/12 bearing DDA No. N-4112, Kathputli Colony.
62. 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 23794/2018 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 JJ DWELLERS OF KATHPUTLI COLONY**

Appeal No: 19 of 2023

Date of Institution: 07.02.2022

Date of Order: 21.05.2024

Present: Appellant/ Claimant Jaggu Bhatt S/o Hazari Lal

Sh. Radhey Shyam Meena, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 10.11.2021 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant has made a Representation to the Competent Authority, thereby, alleging that he is living in Jhuggi bearing No. 368 (W07/B/177) in Kathputli Colony. A Notice by DDA was pasted in the Kathputli Colony to inform the Jhuggi dwellers about the survey to be conducted in the said basti. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. He was found provisionally eligible and accordingly Relocation-cum-Allotment Slip, which is commonly called as "DS" No. 03428 dated 30.10.2017 was issued in favour of Appellant/Claimant subject to final approval by Eligibility Determination Committee (hereinafter called EDC) on merits after scrutiny of the required documents and her fulfilling the requisite conditions as per the policy guidelines issued by DDA. Thereafter, Flat No. 21, Block-A-15, Pocket-4, Ground Floor, Narela Sector-7-G was allotted by DDA by issuing Allotment Letter dated 25.10.2017 in favour of the Appellant/Claimant. The Appellant/Claimant had also given an undertaking that if any fact/document is/are found to be false/forged, then his provisional allotment shall be liable to be cancelled. Further, the Appellant/ Claimant has shifted to Narela after DDA has made provisional allotment in his favour. Subsequently, the Eligibility Determination Committee has considered the claim of the Appellant/ Claimant on merits and on verifications of documents submitted by the Appellant/ Claimant the Eligibility Determination Committee has come to the conclusion that the present Appellant/ Claimant does not fulfill the eligibility criteria as per the policy guidelines issued by DDA and accordingly


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rejected his claim and the Nodal Officer, Kathputli Colony, duly communicated its order bearing No. F/KPC (280)13/Survey/LM/WZ/3468 dated 10.11.2021 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 19 of 2023 has been filed by the present Appellant/Claimant.

3. It is pointed out that in the month of October 2023 a bunch of about 250 appeals pertaining to Kathputli Colony has been sent to the Appellate Authority for disposal. After receiving of appeals files the same were ordered to be checked & registered and this Appellate Authority has directed to issue notice to procure the presence of the present Appellant/Claimant with the direction that it be got served by deputing official/special messenger and the copy of the same be also pasted on the Notice Board in the Transit Camp, Anand Parbat/Narela as well as on the main gate of the accommodation/flat situated in Transit Camp/Narela in which the Appellant/Claimant is at present living temporarily and in addition to that an attempt be also made by the Call Centre of DDA to intimate the Appellant/Claimant by calling him on his mobile number. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam, Dy. Director.
4. The statement of the Appellant/Claimant has been recorded before us on 18.04.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-Y, 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. Radhey Shyam, Dy. 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 records, the Appellant/Claimant's Jhuggi bearing No. 368 (W07/B/177), Kathputli Colony was found to exist but he had failed to submit required documents, i.e., Voter ID Card as on 01.01.2015 as per the policy guidelines for alternative 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 10.11.2021 whereby the reasons for rejection is mentioned to be "**Voter card not verified from the record of AERO-AC-39**" and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.
7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the


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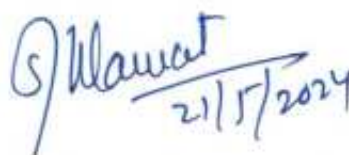

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present Appellant/Claimant. We shall appraise the material placed on file by taking holistic & realistic view to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name 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 and whether he is entitled to claim allotment against the single storey Jhuggi bearing No. 368 (W07/B/177) bearing DDA No. 220 as per the policy guidelines issued by DDA.

8. Here it is pertinent to mention that the Appellant/ Claimant has sought alternate allotment under insitu Slum Redevelopment policy against the single storey Jhuggi No. 368 (W07/B/177) bearing DDA No. 220, Kathputli Colony, as per the policy guidelines issued by DDA. The survey was conducted in respect of the said Jhuggi and the documents, i.e., Voter ID Card & Aadhar Card etc. relating to the Appellant/ Claimant & his family members, which were furnished by the Appellant/ Claimant, were also got verified and all the materials including video clips were placed before the Eligibility Determination Committee but it has rejected the claim of the present Appellant/ Claimant and the same was communicated to the Appellant/Claimant by the Nodal Officer, KPC, vide Rejection Order dated 10.11.2021 whereby the reasons for rejection is mentioned to be **"Voter card not verified from the record of AERO-AC-39"**. This shows that the claim of the Appellant/Claimant was rejected on the sole ground that his Voter Id Card could not be verified, thereby, showing that DDA has not disputed about the existence of the single storey Jhuggi No. 368 (W07/B/177) bearing DDA No. 220 of the Appellant/Claimant on the cutoff date of 01.01.2015 and using the said Jhuggi for residential purposes and further he was also having all other requisite documents and making compliance of all other mandatory conditions except that he was allegedly not having a valid Voter ID Card on the cutoff date of 01.01.2015. Therefore, 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 living separately & independently in the single storey Jhuggi No. 368 (W07/B/177) bearing DDA No. 220 and whether he was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015.
9. The statement of the Appellant/Claimant Jaggu Bhatt has been recorded before us on 18.04.2024 wherein he has stated that he is married with Laxmi Devi and having two children, Rahul & Renu. Renu is unmarried. Rahul is married with Divya and having one son, Shaurya.


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10. The Appellant/Claimant has stated that he along with his wife Laxmi and both the children, Rahul & Renu, was living in the single storey Jhuggi No. 368(W07/B/177) bearing DDA No. 280 and it comprised of one room having roof was made with asbestos sheet. The Appellant/Claimant has sought allotment from DDA against the said single storey Jhuggi No. 368(W07/B/177) and regarding that DDA has made provisional allotment in his favour subject to final approval by Eligibility Determination Committee on merit and had issued DS No. 03428 dated 30.10.2017 (Annexure-A) in his favour and further, Flat No. 21, Block-A-15, Ground Floor, Pocket-4, Sector-7-G, Narela was allotted to him vide Allotment Letter dated 25.10.2017 (Annexure-B). The Appellant/Claimant had also submitted an undertaking that if any fact/document is/are found to be false/forged, then his provisional allotment is liable to be cancelled. However, on the request of the Appellant/Claimant instead of shifting to him to Narela provisional accommodation was granted to him at the Transit Camp, Anand Parbat.
11. The Appellant/Claimant has stated that subsequently his claim was placed before the Eligibility Determination Committee for final approval but his claim was rejected on the ground that his Voter ID could not be verified in spite of the fact that he was having all the requisite documents, and aggrieved by the same, the Appellant/Claimant has filed the Appeal No. 19 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-Y, in support of his claim and prayed that DDA be directed to make allotment in his favour.
12. DDA has furnished the survey records along with one video clip. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 18.03.2024 wherein he has stated that the video clip pertains to the Jhuggi No. 368(W07/B/177) in which his wife Laxmi along with daughter Renu is seen standing on the gate of the Jhuggi No. 368(W07/B/177) and getting the survey conducted on behalf of the Appellant/Claimant and the Jhuggi is clearly seen to be single storey structure having roof made with asbestos sheet and further, "DDA No. 280" is clearly seen to have been written on the front wall of the said Jhuggi but the video clip of inside of that Jhuggi was not prepared.
13. It is pointed out that DDA has conducted extensive survey in Kathputli Colony in the year 2010-11, 2014 and July/August 2017. The Appellant/Claimant has submitted an Application (Annexure-Q) to DDA for conducting survey thereby giving the number of his Jhuggi to be Jhuggi No. 368, bearing DDA No. 280, Kathputli Colony and the survey was conducted by the survey


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team of DDA on 05.01.2010 wherein the Jhuggi of the Appellant/Claimant was found to exist. It is pointed out that on the Application (Annexure-Q) the photograph taken by the survey team had also been affixed in which the Appellant/Claimant along with his wife Laxmi & children is seen standing in front of the Jhuggi regarding which he has been claiming allotment from DDA and DDA No. 220 is clearly seen to have been written on the front wall of the said Jhuggi. Further, the Appellant/Claimant has placed on file the Survey Records (Annexure-O) prepared by DDA thereby showing that his name appears at Sl. No. 311 against the survey No. 280 and the number of his Jhuggi is mentioned to be Jhuggi No. 368.

14. As already pointed out above the video clip prepared by the survey team of DDA pertains to the Jhuggi No. 368(W07/B/177) bearing DDA No. 280 in which his wife Laxmi along with daughter Renu is seen standing on the gate of the Jhuggi No. 368(W07/B/177) and getting the survey conducted on behalf of the Appellant/Claimant and the Jhuggi is clearly seen to be single storey structure having roof made with asbestos sheet and further, "DDA No. 280" is clearly seen to have been written on the front wall of the said Jhuggi. And further it is pointed out that in the Survey Records (Annexure-O) prepared by DDA the name of the Appellant/Claimant appears at Sl. No. 311 against the survey No. 280 and the number of his Jhuggi is mentioned to be bearing Jhuggi No. 368. In addition to that the Application (Annexure-Q) was made by the Appellant/Claimant to DDA for conducting survey thereby giving the number of his Jhuggi to be Jhuggi No. 368 bearing DDA No. 280, Kathputli Colony and the reports mentioned on that application itself shows that the survey was conducted by the survey team of DDA on 05.01.2010 wherein the Jhuggi of the Appellant/Claimant was found to exist and in token thereof the photograph taken by the survey team was also affixed on the Application (Annexure-Q) in which the Appellant/Claimant along with his wife Laxmi & children is seen standing in front of the Jhuggi and further "DDA No. 220" is clearly seen to have been written on the front wall of the said Jhuggi. This shows that the Jhuggi No. 368 and Jhuggi No. 368(W07/B/177), which are bearing DDA No. 280, are the one & the same Jhuggi regarding which the Appellant/Claimant has been claiming allotment from DDA.

15. It is also pointed out that DDA has not objected about the existence of the Jhuggi of the Appellant/Claimant as reflected in the Eligibility Determination Committee Note dated 20.11.2019 (Annexure-P) but his claim was rejected on the sole ground that his Voter ID Card could not be verified. The material placed on file shows that the Jhuggi No. 368 and Jhuggi No. W07/B/177 pertains to the same Jhuggi, which is recorded to bearing DDA No. 280 in the survey


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records maintained by DDA. Thus the identity of the Jhuggi of the Appellant/Claimant bearing No. Jhuggi No. 368 or Jhuggi No. 368 (W07/B/177) has been duly established by the video clip and other records prepared by the DDA Survey Team thereby showing that the number of Jhuggi of the Appellant/Claimant was mentioned somewhere to be Jhuggi No. 368 whereas at some place the same Jhuggi is recorded to be bearing another number, i.e., Jhuggi No. 368 (W07/B/177) but the material placed on file has proved that it is one & the same Jhuggi and further it is also established that the Appellant/Claimant along with his family was living in the Jhuggi No. 368 (W07/B/177) bearing DDA No. 220 much prior to the cutoff date of 01.01.2015.

REJECTION OF REPRESENTATION BY EDC VIDE ORDER DATED 11.03.2020

16. Now we shall appraise the material placed on file to show as to how the EDC had proceeded to deal with the claim and more particularly as to whether it was swayed by irrelevant matter or it has determined the claim of the Appellant/ Claimant fairly & independently.
17. It is not disputed that the claim of the Appellant/ Claimant was placed before the Eligibility Determination Committee (hereinafter called EDC). It is pertinent to point out that the claim of the Appellant/ Claimant was rejected by EDC on 20.11.2019 and the Nodal Officer, Kathputli Colony, duly communicated its order bearing No. F/KPC (280)13/Survey/LM/WZ/3468 dated 10.11.2021 to the present Appellant/Claimant and the Note of the EDC dated 20.11.2019 (Annexure-P) is reproduced for better understanding of the facts and the grounds on which the claim of the present Appellant/ Claimant was rejected, as under: -

EDC Note dated 20.11.2019 (Annexure-P)

"1. While examining the present case for determination of eligibility, it was observed that there was some deficiency in the requisite documents as per policy guidelines. In this regard deficiency /call letter dated 14.06.2019 was issued to the applicant/ claimant requesting for submission of required documents. Further, a final notice was also served to the applicant/ claimant to give them an opportunity for submission of required documents. The applicant failed to submit the documents in spite of final opportunity. As per survey record, the voter card no. SMM 1298272 // SMM 1298264 dated 15.01.2015 submitted by the applicant was either after the cut-off date or not found and the policy guidelines for alternate allotment in cases of first floor is as under:

*2. As per policy guidelines, **Part -B The eligibility criteria for allotment for allotment of alternative dwelling units for rehabilitation and relocation of JJ dwellers would be as under:** -The name of JJ dwellers must appear in at least one of 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. However, **name of applicant does not appear in any***

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voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and his voter card No. SMM 1298272 / / SMM 1298264 dated 15.01.2015 not found valid.

3. *The applicant/ claimant has failed to submit valid voter ID card which is mandatory for determining eligibility. Hence, the applicant/claimant does not fulfil the eligibility criteria. **The applicant/ claimant is found ineligible for alternative allotment.***

18. The survey records placed on file shows that the single storey Jhuggi No. 368 (W07/B/177) Survey No. 220 of the Appellant/ Claimant was found to exist but his claim was rejected by EDC on 20.11.2019 on the sole ground that his Voter ID Card could not be verified, which was mandatory document for the dwellers claiming allotment from DDA as per the policy guidelines issued by DDA.
19. The bare perusal of the Note dated 20.11.2019 (Annexure-P) also shows that it is nowhere disputed by DDA as far as the existence of the single storey Jhuggi of the Appellant/ Claimant bearing Jhuggi No. 368 (W07/B/177) Survey No. 220 and the Appellant/ Claimant along with her family was living there separately & independently and using it for residential purposes is concerned but his claim was rejected on the sole ground that his Voter ID Card could not be verified. The requirement of the Voter ID Card for the dwellers claiming allotment shall be discussed in detail by us in the later part of this order. Thus the fact remains that the Appellant/ Claimant was having a single storey Jhuggi bearing Jhuggi No. 368 (W07/B/177) Survey No. 220, which was a separate dwelling unit and further the Jhuggi No. 368 and Jhuggi No. 368(W07/B/177), which are bearing DDA No. 280, are the one & the same Jhuggi regarding which the Appellant/Claimant has been claiming allotment from DDA.
20. There is nothing to disbelieve the statement of the Appellant/Claimant as it has been corroborated by the survey records/video clip/photograph prepared by the survey team of DDA as well as reflected in the EDC Note (Annexure-P) and accordingly, we have no hesitation in holding that the single storey Jhuggi No. 368 (W07/B/177) Survey No. 220 was a pucca & an old construction and it was very much in existence much prior to the cutoff date of 01.01.2015 and it was a separate dwelling unit and the Appellant/ Claimant along with his family was living separately & independently in the said Jhuggi on the cutoff date of 01.01.2015 and the Appellant/ Claimant was using the said Jhuggi for residential purposes.
21. 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


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2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the single storey Jhuggi No 368 (W07/B/177) bearing DDA No. 220 as per the policy guidelines issued by DDA.

22. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-Y, in support of his claim and prayed that DDA be directed to make allotment in his favour against the single storey Jhuggi No 368 (W07/B/177) bearing DDA No. 220.
23. 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.


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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.
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."

24. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMENTS OF DOCUMENTS

25. As per Clause 1 (6) Part-B of DDA policy JJ dweller claiming allotment against a single storey


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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 in Clause 2. 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 one of the documents out of list of 12 documents.

26. Thus the bare perusal of the Policy shows that for claiming allotment against the **ground floor** the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff 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 and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMENTS OF DOCUMENTS

27. As already pointed out above, condition contained in Clause 1 (10) of Part-B 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."

28. Thus Clause 1 (10) of Part-B 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. Therefore, the dweller, who is not having ration card, will not be eligible for allotment even if he possesses any one of the documents out of list of 12 documents.

29. Thus the bare perusal of the Policy shows that for claiming allotment against the **first floor** the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff 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 and further, he/she must possess a separate ration card issued before


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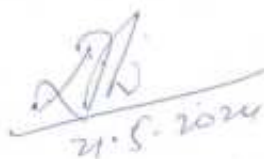

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01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against the upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

30. The bare perusal of the Policy shows that different criterion has been provided for the JJ dwellers claiming alternative allotment against the ground & first floors in the DDA policy because the dweller, who is claiming allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming allotment against the upper floor, to have a ration card issued before the cutoff date of 01.01.2015. Dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor so on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. But both are required to be treated on parity irrespective of that whether they are claiming alternative allotment from DDA against the ground floor or upper floor.
31. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the point of ration card was not discussed. Therefore, this Appellate Authority changed its view by taking a conservative approach on the requirement of ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and have decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.


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32. Now the matter has been settled by way of judicial pronouncement as the legality of requirement of a Ration Card as a mandatory document for the dwellers claiming allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the Hon'ble High Court of Delhi in the case of "**Mohammad Hakam and Another versus Delhi Development Authority**" in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022".
33. The facts of the Mohammad Hakim's case (supra) are that the claim of Petitioner No. 1 (before the Hon'ble High Court) was rejected by the EDC and aggrieved by the same he had filed Appeal No. 61 of 2017/04/2017 before this very Appellate Authority and his appeal was allowed by this Appellate Authority vide order dated 30.01.2019 thereby holding that he fulfills the eligibility criteria as per the guidelines issued by DDA, however, the EDC has wrongly and illegally rejected his claim and accordingly DDA was directed to make allotment in his favour with respect to Jhuggi No. E-278, Kathputli Colony. But the order of the Appellate Authority dated 30.01.2019 was set aside by the Administrative Department of DDA and aggrieved by the same Petitioner No. 1 has filed Writ Petition bearing No. W.P. (C) 1585/2022 before the Hon'ble High Court of Delhi. Similarly, the claim of Petitioner No. 2 (before the Hon'ble High Court) was rejected by the EDC and aggrieved by the same he had filed Appeal No. 40 of 2017 before this very Appellate Authority and his appeal was allowed by this Appellate Authority vide order dated 17.08.2018 thereby holding that he fulfills the eligibility criteria as per the guidelines issued by DDA because it was held that the applicant had applied for issuing separate ration card but the concerned authority had refused to issue a separate ration card because of policy of the concerned Food Department and not due to any default or inaction or lapse on his part and thus he had explained the reasons of non issuance of separation card by the Food & Civil Supply Department in his individual name pertaining to the first floor of the Jhuggi in question even though he was living separately & independently, however, the EDC has wrongly and illegally rejected his claim and accordingly DDA was directed to make allotment in his favour with respect to Jhuggi No. E-81, Kathputli Colony. But the order of the Appellate Authority dated 17.08.2018 was set aside by the Administrative Department of DDA and aggrieved by the same Petitioner No. 2 has filed Writ Petition bearing No. W.P. (C) 1585/2022 before the Hon'ble High Court of Delhi. Similarly, the claim of Petitioner No. 3 (before the Hon'ble High Court) was rejected by the EDC and aggrieved by the same he had filed Appeal No. 01 of 2017 before this


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very Appellate Authority and his appeal was allowed by this Appellate Authority vide order dated 19.07.2018 thereby holding that he fulfills the eligibility criteria as per the guidelines issued by DDA because it was held that the applicant had explained the reasons of non issuance of separation card by the Food & Civil Supply Department in his individual name pertaining to the first floor of the Jhuggi in question even though he was living separately & independently, however, the EDC has wrongly and illegally rejected his claim and accordingly DDA was directed to make allotment in his favour with respect to Jhuggi No. B-643, Kathputli Colony. But the order of the Appellate Authority dated 19.07.2018 was set aside by the Administrative Department of DDA and aggrieved by the same Petitioner No. 3 has filed Writ Petition bearing No. W.P. (C) 2514/2022 before the Hon'ble High Court of Delhi. Both the Writ Petitions bearing W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022" were consolidated. However, pursuant to the filing of the writ petition the case of the petitioner No. 1 was re-examined and reviewed by the competent authority of DDA and it was found that his case was inadvertently recommended for 'non-acceptance' by the competent authority due to mixing of his records with other 62 cases, therefore, DDA rectified its mistake by withdrawing the impugned letter of rejection and granting the relief as sought by him in the writ petition. But the relief claimed by the respondent No. 2 & 3 was contested on merit and was decided on 29.02.2023 by **the Hon'ble High Court of Delhi whereby the decisions of the Appellate Authority was upheld thereby setting aside the impugned orders passed by the Administrative Department/Nodal Officer of DDA** wherein it has been held as under: -

"81. In this backdrop, this Court deems it apposite to discuss the concept of Ration card and the aim of issuing the same.

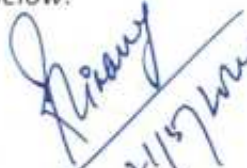
82. The term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System.

83. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder.

84. Moreover, this Court shall now peruse the Para 4(6) of Gazette notification No. G.S.R. 104(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution which disallows the use of ration card as a document of identity or proof of residence. The relevant extract has been reproduced herein below:


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"4. Ration Cards.-

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(6) Ration card shall not be used as a document of identity or proof of residence."

85. Hence, ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism setup by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card.

86. The aim of the ration card is to ensure that the citizens of this country are provided foodgrains at a reasonable price. Hence, it is not reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System.


87. Therefore, the respondent has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed gazette notification, definition of ration card as well as the intent behind issuance of the same.

88. Furthermore, in the instant petition the petitioners contended that they have applied for Ration Cards, however, they have not been issued the same by the Competent Authority. In this regard, the Court shall discuss the order of the Coordinate Bench of this Court in writ petition bearing no. **Shanti Devi vs Union of India**¹ wherein the petitioner applied for the ration card in the year 2013 (8 years before), however, she was not issued the same for the last 8 years, despite giving several representations. The afore discussed order has been reproduced herein below:

"1. The petitioner, who claims to be falling within the category of persons Below Poverty Line (BPL)" has approached this Court with the grievance that despite repeated representations made by her, she has not been issued a ration card for the last eight years.

2. On the last date, Mr. Narayan, learned counsel for respondent nos.2 to 4 was granted time to obtain instructions. Today, he submits that no ration card could be issued to the petitioner as the limit for issuance of 72 lakh ration cards set by respondent no. 1, based on the Census of 2011, already stands exhausted and therefore, the respondents nos.2 to 4 cannot be faulted for not having issued a ration card to the petitioner."

89. In view of the aforesaid order, it is pertinent to note that ration cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limit for issuance of Ration Card has already been exhausted, therefore, even if a person is eligible to be issued Ration Card, he/ she shall not be issued the same.


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90. Hence, in light of the aforesaid submissions by the learned counsel for the Delhi Government in the aforesaid writ petition, this Court is of the considered view that the contention of the petitioners in the instant batch of petitions regarding non- issuance of Ration Card holds water.

91. Keeping in mind the aforesaid circumstances, this Court is of the view that mere non-issuance of a Ration Card cannot be a ground for denial of the alternative allotment to the petitioners. The respondent should have introspected into the issue and accordingly, should have taken step to alleviate issues faced by the poor dwellers of the Kathputali Colony.

92. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Moreover, it is responsibility of the respondent that they should have introspected into the intent and motive behind issuing of the Ration Card which is distribution of food through Public Distribution System.

93. Therefore, the requirement of a Ration Card as mandatory document to be produced before the respondent as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. The respondent should have exercised due caution and care before adhering to such a requirement. It should take a fair and realistic view of the circumstances before it.

94. The respondent should introspect on the fact that how much harassment and pain must have been caused to the petitioners due to such arbitrary requirements. The afore discussed actions of the respondent is in clear violation of the petitioners' right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of this Court in the judgment of **Udal v. Delhi Urban Shelter Improvement Board and Ors² 2017 SCC OnLine Del 9715** as follows:

"15. It is trite that the right to housing is an essential part of Right to Life and a fundamental right ensured by Article 21 of the Constitution of India. It has also been held that the right to life is not right to merely an animal existence but an entitlement to reasonable accommodation (Ref.: (1996) 2 SCC 549, Chameli Singh v. State of U.P. and (1990) 1 SCC 520, Shantistar Builders v. Narayan Khimalal Totame). The contours of this right were further expanded by a pronouncement of the Supreme Court reported at (1997) 11 SCC 121, Ahmadabad Municipal Corporation v. Nawab Khan Gulab Khan wherein the court held that when slum dwellers have been residing at a place for some time, it became the duty of the government to make schemes for housing these jhuggi dwellers. Relying on the principles laid down in these judgments, this court in 168 (2010) DLT 298, Sudama Singh v. Government of Delhi has relied upon the provisions of the Delhi Master Plan and emphasized in-situ rehabilitation of the slum dwellers.


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16. Judicial notice can be taken of the fact that the National Capital Territory of Delhi attracts people, especially poor people, from all over the country who come to the city in search of work and must reside reasonably near to their place of work. In recognition of the responsibility to house the poor in a permanent humane manner, the Government of NCT of Delhi announced "Delhi Slum and JJ Rehabilitation and Relocation Policy, 2015". Under Clause 2(a), Delhi Urban Shelter Improvement Board („DUSIB" hereafter) was appointed as the nodal agency for implementation of the policy."

95. Accordingly, this Court is also of the view that the petitioners' right to housing shall be kept at the highest pedestal. It is one of the safeguards provided in our Constitution and the legacy has been carried forward by the writ Court by way of various judicial precedents which reiterates the same.

96. In the instant petitions, the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over quasi-judicial matters already adjudicated upon by the appellate authority. This aforesaid act of the Nodal officer of the respondent underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petition are set-aside.

97. The decision of the appellate authority is upheld which held that the petitioners are in possession of other documents as stipulated by Clause 2 of the Policy as well as the aforesaid documents are issued before the cut-off date, hence, the petitioners are entitled for an alternative dwelling unit and their claims shall be admitted by the respondent.

98. Accordingly, this Court holds that the impugned orders passed by the Nodal Officer of the respondent are liable to be set-aside.

CONCLUSION

99. The afore-discussed actions of the respondent, ostensibly operating within the framework of legality, struck at the heart of justice, undermining the very principles upon which the judicial system purportedly stands. Subsequent to the petitioners' challenge of the initial rejection, the issuance of a second letter of rejection by the respondent compounded the petitioners' anguish. This second rejection purportedly cited new reasons for denial, yet failed to withstand scrutiny in light of legal precedents previously established by the writ Courts and of particular note was the justification provided by the respondent for the second rejection, namely, the purported non-filing of a ration card by the petitioner. Such a justification, given the petitioner's provision of alternative legal proofs of identity consistent with statutory requirements and prior judicial interpretation, underscored the arbitrary nature of the respondent's actions.


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100. The petitioner's distress, exacerbated by the respondent's actions, exemplified the inherent flaws within the legal system, which too often favours the powerful over the marginalized. The respondent's actions, shielded by the veneer of legality, served to perpetuate systemic injustices, leaving the petitioners vulnerable.


101. The Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the jhuggis there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the jhuggis especially in the light of the paragraph no. 4(6) of Gazette Notification No. G.S.R. 104(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution which disallows the use of ration card as a document of identity or proof of residence. Moreover, the intent of issuance of Ration Card is distribution of essential food items by Public Distribution System and hence, it does not intent on being used as an identity proof or an address proof.


102. Hence, the Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 (PART-B) has wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card.

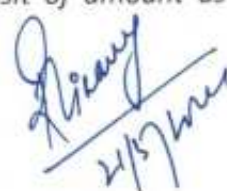
103. This Court is of the view that the respondent shall consider other documents issued before the cut-off date i.e., 1st January 2015 as enlisted in Clause 2 of The Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 (PART-B) which are as follows: Passport, Electricity bill, Driving License, Identity Card/ Smart Card with photograph issued by State/ Central Government and/ or its Autonomous Bodies/ Agencies like PSU/ Local Bodies (except EPIC), Pass book issued by Public Sector Banks/ Post Office with photograph, SC/ST/OBC Certificate issued by the Competent Authority Pension document with photograph such as Ex-serviceman's Pension Book, Pension Payment Order, Ex-serviceman widow/dependent certificate, old age pension order or widow pension order, Freedom Fighter Identity Card with photograph, Certificate of physically handicapped with photograph issued by the Competent Authority, Health Insurance Scheme Smart card with photograph (Ministry of Labour scheme, Identity card with photograph issued in the name of the descendants) of the slum dweller from a Government school or Certificate with photograph issued by the Principal of a Government School mentioning therein that the descendants) of the JJ dweller is/was the student of the school.

104. In view of the aforesaid discussion, the impugned orders dated 3rd July 2020 in both writ petitions are quashed by this Court by way of exercising its jurisdiction vested under Article 226 of the Constitution of India. Accordingly, the instant petitions are allowed.

105. This Court directs the respondent to allocate an alternative dwelling unit in favor of the petitioners subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of The Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 (PART-B) issued before the cut-off i.e., 1st January 2015, the deposit of amount as


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stipulated by the respondent as well as any other requirement as mandated by the respondent.

106. Accordingly, the instant petitions alongwith pending applications, if any, are disposed of.

107. The judgment to be uploaded on the website forthwith."

- 34.** The Hon'ble High Court had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) OF Gazette Notification No. G.S.R. 104(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.
- 35.** It is further held that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.
- 36.** It was also pointed out that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separation

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card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

37. It is further held that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The decision of the Appellate Authority were upheld, which held that the petitioners were in possession of other documents as stipulated by Clause 2 of the Policy as well as the aforesaid documents are issued before the cut-off date, hence, the petitioners were held entitled for an alternative dwelling unit and their claims shall be admitted by the respondent/DDA and accordingly, the impugned orders passed by the Nodal Officer of the DDA were set aside.

38. Therefore, the facts of the present appeal are squarely covered by the facts of the Mohammad Hakim's case (supra) wherein the Hon'ble High Court of Delhi has held that the DDA policy as per Clause (1) (x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggis there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis and it has been held that the DDA policy, 2015 (PART-B) has wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a


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separate Ration Card but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered.


39. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor. In view of our discussion above, the bare perusal of the DDA Policy 2015 in the light of judgment in Mohammad Hakim's case (supra) shows that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & 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 and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

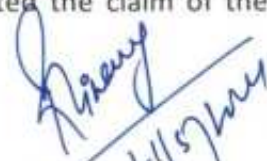
GIST OF THE POLICY

40. In the light of our discussion above, we shall now appraise the material placed on file by 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 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 possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the single storey Jhuggi No. 368 (W07/B/177) bearing DDA No. 220 as per the policy guidelines issued by DDA.

41. We have already pointed out that the Appellant/ Claimant has sought alternate allotment under insitu Slum Redevelopment policy against the single storey Jhuggi No. 368 (W07/B/177) bearing DDA No. 220, Kathputli Colony, as per the policy guidelines issued by DDA. The survey was conducted in respect of the said Jhuggi and the documents, i.e., Voter ID Card & Aadhar Card etc. relating to the Appellant/ Claimant & his family members, which were furnished by the Appellant/ Claimant, were also got verified and all the materials including video clips were placed before the Eligibility Determination Committee but it has rejected the claim of the


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present Appellant/ Claimant and the same was communicated to the Appellant/Claimant by the Nodal Officer, KPC, vide Rejection Order dated 10.11.2021 whereby the reasons for rejection is mentioned to be "Voter card not verified from the record of AERO-AC-39". This shows that the claim of the Appellant/Claimant was rejected on the sole ground that his Voter Id Card could not be verified, thereby, showing that DDA has not disputed about the existence of Jhuggi of the single storey Jhuggi No. 368 (W07/B/177) bearing DDA No. 220 of the Appellant/Claimant on the cutoff date of 01.01.2015 and using the said Jhuggi for residential purposes and further he was also having all other requisite documents and making compliance of all other mandatory conditions except that he was allegedly not having a valid Voter ID Card. Therefore, 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 on the cutoff date of 01.01.2015.

42. The Appellant/Claimant has tendered his Voter ID Card bearing No. SMM 1298272 (Annexure-C), Aadhar Card (Annexure-D), Voter List of the year 2012 (Annexure-T), Voter List of the year 2013 (Annexure-U), Voter List of the year 2014 (Annexure-V) and Voter List of the year 2015 (Annexure-W) in support of his claim.
43. It is pointed out that the Appellant/Claimant has tendered his Voter ID Card bearing No. SMM 1298272 (Annexure-C) and it has been issued on 15.01.2010, much prior to the cutoff date of 01.01.2015 on the address of the Jhuggi No. W-07/B-177. However, the Appellant/Claimant has stated that he has not used this Voter ID Card to cast vote and accordingly, this Voter ID Card was cancelled by the Election Commission on the ground of non-use. Thereafter, the Appellant/Claimant has got another Voter ID Card bearing No. SMM 1280254 issued on the address of the Jhuggi No. 368, Kathputli Colony and he had used this Voter ID Card to cast vote in the elections of the year 2012 to 2015. But this Voter ID Card has been misplaced by the Appellant/Claimant and he had applied to the Election Commission for issuance of a duplicate copy of the Voter ID card but till now the duplicate copy has not been issued in his favour. In view of the matter the Appellant/Claimant cannot be blamed for non issuance of the duplicate copy of the Voter ID card No. SMM 1280254.
44. The letter dated 12.04.2024 (Annexure-S) of AERO, AC-39, Rajinder Nagar also verifies the fact that the Voter ID card No. SMM 1280254 of the Appellant/Claimant is a valid document as per the records of the Election Commission and further his names appears in the voter list of the


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years 2012, 2013, 2014 and 2015 and further in these voter lists the number of the Voter ID card of the Appellant/Claimant is mentioned to be bearing No. SMM 1280254. This shows that the Voter ID card No. SMM 1280254 of the Appellant/Claimant is a valid document and further it was used by the Appellant/Claimant to cast vote in the years 2012, 2013, 2014 and 2015 and accordingly this shows that the Voter ID was issued much prior to the year 2012 and it was continuously used to cast votes from 2012 to 2015 and accordingly non tendering of the Voter ID card No. SMM 1280254 is of no consequence.

45. It is pointed out that the Appellant/Claimant has used his Voter ID Card No. SMM 1280254 to cast vote in the elections from 2012 to 2015 and this fact is corroborated by the fact that his name appears at Sl. No. 607 in the Voter List of the year 2012 (Annexure-T), at Sl. No. 607 in the Voter List of the year 2013 (Annexure-U), at Sl. No. 578 in the Voter List of the year 2014 (Annexure-V) & at Sl. No. 582 in the Voter List of the year 2015 (Annexure-W). It is also pointed out that in the Voter Lists (Annexure-T to Annexure-W) the number of the Voter ID Card of the Appellant/Claimant is mentioned to be bearing No. SMM 1280254. The Appellant/Claimant has tendered his Aadhar Card (Annexure-D) which is bearing No. 7893 7185 3711 in which his address is mentioned to be Jhuggi No. W-07/B-177. Further in all the above-mentioned Voter Lists of the years 2012 to 2015 (Annexure-T to Annexure-W) the address of the Appellant/Claimant is mentioned to be Jhuggi No. 368 regarding which he has been claiming allotment from DDA. Furthermore, we have already pointed out that the material placed on file shows that the Jhuggi No. 368 and Jhuggi No. W07/B/177 are one & the same Jhuggi, which is recorded to be bearing "DDA No. 280" in the survey records maintained by DDA and accordingly the identity of the Jhuggi of the Appellant/Claimant bearing No. Jhuggi No. 368 or Jhuggi No. 368 (W07/B/177) has been established by the video clip/photograph/survey records prepared by the DDA Survey Team in which the said Jhuggi is proved to be bearing DDA No. 220 and it establishes that the Appellant/Claimant along with his family was living in the single storey Jhuggi No. 368 (W07/B/177) bearing DDA No. 220. Therefore, the material placed on file shows that the Appellant/Claimant was having Aadhar Card (Annexure-D) and also a valid Voter ID Card on the cutoff date of 01.01.2015 and further his name also appears in the voter list of the year's 2012, 2013, 2014 and 2015 (Annexure-T to Annexure-W), therefore, the Appellant/Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

46. It is pointed out that in **Udal v. Delhi Urban Shelter Improvement Board and Ors² 2017 SCC OnLine Del 9715** the Hon'ble High Court of Delhi has found that the petitioners have produced


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the documents, including the National Food Security Card, Ration Card, Gas/Oil Bill, Electricity Bill, BSES Meter Change Report, School Leaving Certificates, School Progress Report of Children, Report Card of Children, Aadhar Cards, Driving Licences, Passbooks, PAN Card, Death Certificate of the Spouse of one of the parties, LIC Policy but they could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy. The Hon'ble High court held as under: -

"33.Therefore, even though these petitioners could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy, however, if an holistic view is undertaken of the documentation as produced, it would amply establish the residence and existence of these persons at the Rajiv Camp for the periods from 1998 till 2016."

"38. Mr. Parvinder Chauhan, Id. Standing Counsel for respondent no.1 has staunchly contended that the requirement of Clause 1(iii) of Part-B of R& R Policy to the effect that the name of the person must feature in the electoral roll for any of the prescribed five years, is mandatory and the failure for the name to appear in such electoral roll must be fatal so far as consideration for allotment of alternative flat for rehabilitation under the R&R Policy is concerned. In the given facts and circumstances, we are unfortunately unable to agree with this submission. The records placed by these persons include National Food Security Cards, Ration Cards, Oil/Gas Bill, SC/ST Certificates, Electricity Bill, LIC Policies, Gas Connection Records and Bills, Driving Licences, Passbooks, Birth Certificate of Children as well as records of School Admission of Children, their Progress Report Cards, all of which show their continued existence on the spot. A realistic view has to be taken in this regard. We find that the persons who were found ineligible were in possession of public identification including Voter ID - cards. The failure of the names of such persons to feature in the electoral roll could be for any number of reasons. The same could happen, if the person was not at home at the time the Booth Level Officer visited Jhuggi of the person concerned. This could be on account of the occupation of the person or for the person and adults of the family having left the Jhuggi for work. Obviously, the Booth Level Officer or any persons conducting the survey would not have met the adult members of the family. There would thus not be any adult members of the family to give the information for names to be included in the electoral rolls."

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"40. We find that as per Clause 2 of PART - B of the R&R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents. In the above cases, the Jhuggi Jhopri dwellers have produced multiple records ranging to periods in the late 1990s till date. In this view of the matter, the persons detailed in paras 37 and 38 above are clearly entitled to the benefit of the policy. We are of the view that the ineligibility letter dated 22nd December, 2016 by the respondents have been issued to these persons because of a disjoint reading of Clause 1(iii) and Clause 2 of PART - B of the policy. The same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1(iii) and Clause 2 of Part-B of the R&R Policy, 2015."

47. Therefore, the present appeal is squarely covered by the facts of Udal's case (supra) decided by the Hon'ble High Court of Delhi wherein it has been held that as per Clause 2 of PART-B of the R & R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents and we cannot give a disjoint reading of Clause 1 (iii) and Clause 2 of PART - B of the policy but the same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1 (iii) and Clause 2 of PART-B of the R & R Policy, 2015.

48. On this aspect it is pertinent to point out that when the single storey Jhuggi No. 368 (W07/B/177) bearing DDA No. 220 of the Appellant/Claimant is found to exist on the cutoff date of 01.01.2015 and he is also found to be having a Aadhar Card and also a valid Voter ID 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 and also he possesses any one document out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 then his claim can not be rejected by taking hyper technical view especially when he was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further his name also appears at Sl. No. 607 in the Voter List of the year 2012 (Annexure-T), at Sl. No. 607 in the Voter List of the year 2013 (Annexure-U), at Sl. No. 578 in the Voter List of the year 2014 (Annexure-V) & at Sl. No. 582 in the Voter List of the year 2015 (Annexure-W) and he as well his family are having documents to show that they have been living in the said Jhuggi much prior to the cutoff date of 01.01.2015.

49. Now we shall appraise the material placed on file to determine as to whether there are documents placed on file to shows that the Appellant/Claimant along with his family was living


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in Jhuggi No. 368(W-07/B-177) since long and more particularly on the cutoff date of 01.01.2015 and whether they have got the documents issued in their favour prior to the cutoff date of 01.01.2015 to lent support to the claim put forward by the Appellant/Claimant.

50. The Appellant/Claimant has tendered the Voter ID Card No. SMM 1298264 (Annexure-E), Aadhar Card (Annexure-F) & PAN Card (Annexure-H) of his wife Laxmi, the Aadhar Card (Annexure-G) of his daughter Renu, Electricity Bill (Annexure-I), No Dues Certificate (Annexure-J), Ration Cards (Annexure-K & Annexure-L), Gas Connection (Annexure-M), Passbook of Indian Bank (Annexure-N), Internet Report (Annexure-R) as well as the Voter ID Card (Annexure-X) & Aadhar Card (Annexure-Y) of his son Rahul in support of his claim.
51. It is pointed out that the Voter ID Card No. SMM 1298264 (Annexure-E) of Laxmi has been issued on 15.01.2010, much prior to the cutoff date of 01.01.2015 on the address of the Jhuggi No. W-07/B-177. But the Appellant/Claimant has stated that she has not used this Voter ID Card to cast vote and accordingly, this Voter ID Card was cancelled by the Election Commission on the ground of non-use. Thereafter, his wife Laxmi had got another Voter ID Card bearing No. SMM 1280262 issued on the address of the Jhuggi No. 368, Kathputli Colony and she had used this Voter ID Card to cast vote in the elections of the year 2012 to 2015. But this Voter ID Card has been misplaced by Laxmi and she had applied to the Election Commission for issuance of a duplicate copy of the Voter ID card but till now, the duplicate copy has not been issued in her favour. It is also pointed out that she has used her Voter ID Card No. SMM 1280262 to cast vote in the elections from 2012 to 2015 and this fact is corroborated by the fact that her name appears at Sl. No. 608 in the Voter List of the year 2012 (Annexure-T), at Sl. No. 608 in the Voter List of the year 2013 (Annexure-U), at Sl. No. 579 in the Voter List of the year 2014 (Annexure-V) & at Sl. No. 583 in the Voter List of the year 2015 (Annexure-W). It is pointed out that in all of the Voter Lists of the Years 2012 to 2015 (Annexure-T to Annexure-W), the number of the Voter ID Card of his wife Laxmi has been mentioned to be SMM 1280262 and further, in all these documents, their address has been mentioned to be Jhuggi No. 368, Kathputli Colony, Delhi.
52. The Appellant/Claimant has tendered the Aadhar Card (Annexure-F) of his wife Laxmi which is bearing No. 2689 5140 2940 in which his address is mentioned to be Jhuggi No. W-07/B-177. Further in all the above-mentioned Voter Lists of the years 2012 to 2015 (Annexure-T to Annexure-W) the address of the Appellant/Claimant & his wife Laxmi is mentioned to be Jhuggi

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No. 368 regarding which the Appellant/Claimant has been claiming allotment from DDA. Furthermore, we have already pointed out that the material placed on file shows that the Jhuggi No. 368 and Jhuggi No. W07/B/177 pertains to the same Jhuggi, which is recorded to bearing DDA No. 280 in the survey records maintained by DDA and accordingly the identity of the Jhuggi of the Appellant/Claimant bearing No. Jhuggi No. 368 or Jhuggi No. 368 (W07/B/177) has been established by the video clip/photograph/survey records prepared by the DDA Survey Team in which the same Jhuggi is seen to be bearing DDA No. 220 and it establishes that the Appellant/Claimant along with his family was living in the Jhuggi No. 368 (W07/B/177) bearing DDA No. 220. The material placed on file shows that his wife Laxmi was having Aadhar Card and also a valid Voter ID 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 and further all these documents have been issued on the address of the Jhuggi No. 368 (W07/B/177) bearing DDA No. 220 regarding which the Appellant/Claimant has been claiming allotment from DDA, therefore, the Appellant/Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

53. Furthermore, in addition to the documents of his wife Laxmi, the Appellant/Claimant has tendered the Aadhar Card (Annexure-G) of his daughter Renu which is bearing No. 6567 6919 1272 in which her address is mentioned to be Jhuggi No. W-07/B-177 and further it has been issued on 10.01.2012, much prior to the cutoff date of 01.01.2015. It is pointed out that the Electricity Bill (Annexure-I) shows that the electricity connection was taken by his wife Laxmi Devi on 23.01.2016 and the No Dues Certificate (Annexure-J) has been issued by Tata Power-DDL on 18.02.2019 on the address of the Jhuggi No. W-07/B-177. It is pointed out that the Appellant/Claimant has tendered two Ration Cards (Annexure-K & Annexure-L). The old Ration Card (Annexure-K) is bearing No. APL 66290210 and it has been issued on 18.08.2005 in favour of the Appellant/Claimant and the name of his wife and children has been mentioned therein but it has been issued on the address of the Jhuggi No. 368. The new Ration Card (Annexure-L) bearing No. 077001897091 has been issued in favour of his wife Laxmi and the name of the Appellant/Claimant and both of his children has been mentioned therein but the date of issuance is not mentioned but it has been issued on the address of the Jhuggi No. W-07/B-177. Further, the Report (Annexure-R) downloaded from Internet shows that Laxmi has applied for issuance of Ration Card on 26.10.2013 and the same was approved on 26.11.2014 thereby issuing Ration Card No. 077001897091. The Gas Connection document (Annexure-M) shows that the Appellant/Claimant had taken the gas connection no. 60855998 on the address of the


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Jhuggi No. 368 on 06.09.2013, much prior to the cutoff date of 01.01.2015. The Passbook of Indian Bank (Annexure-N) shows that the Appellant/Claimant had opened the account on the address of the Jhuggi No. W-07/B-177 but the date of opening the account is not mentioned therein. The Appellant/Claimant has also tendered the Voter ID Card (Annexure-X) & Aadhar Card (Annexure-Y) of his son Rahul and both the documents have been issued on the address of the Jhuggi No. B-177. The Voter ID Card No. SMM 1902040 (Annexure-X) of his son Rahul has been issued on 18.10.2010, much prior to the cutoff date of 01.01.2015. Furthermore, we have already pointed out that the material placed on file shows that the Jhuggi No. 368 and Jhuggi No. W07/B/177 pertains to one & the same Jhuggi, which is recorded to bearing DDA No. 280 in the survey records maintained by DDA. These documents also corroborate that the Appellant/Claimant along with his family members was living in the single storey Jhuggi No. 368(W-07/B-177) bearing DDA No. 220, Kathputli Colony since long and much prior to the cutoff date of 01.01.2015.

54. The Appellant/Claimant has tendered Voter ID Cards & Aadhar Cards belonging to him and family members as well as the Electoral Rolls, Bank Passbook, Gas Connection, Ration Cards, No Dues Certificate & Electricity Bill etc. and all these documents have been issued much prior to the cutoff date of 01.01.2015 and it accordingly amply establishes that he as well as his family members have been living in the single storey Jhuggi No. 368(W-07/B-177) bearing DDA No. 220, Kathputli Colony, since long and more particularly on the cutoff date of 01.01.2015 and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.
55. The Appellant/ Claimant has contended that his claim was ultimately rejected by the Eligibility Determination Committee vide order dated 10.11.2021 in spite of the fact that much earlier to that DDA has made provisional allotment by issuing the DS No. 03428 dated 30.10.2017 (Annexure-A) and thereafter DDA has allotted Flat No. 21, Block-A-15, Pocket-4, Ground Floor, Sector-7-G, Narela in his favour vide Allotment Letter dated 25.10.2017 (Annexure-B) but on his request DDA had shifted him to the Transit Camp, Anand Parbat instead of Narela but these facts were not duly considered by EDC. Accordingly, he has come before us thereby challenging the order of rejection dated 10.11.2021.
56. It is not disputed that DDA has made provisional allotment in favour of the present Appellant/ Claimant and had issued the DS No. 03428 dated 30.10.2017 (Annexure-A) and thereafter DDA

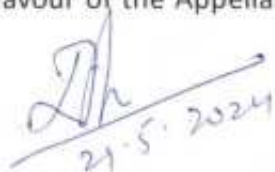

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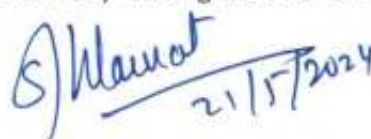

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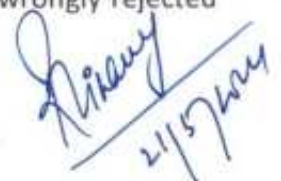

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has allotted Flat No. 21, Block-A-15, Pocket-4, Ground Floor, Sector-7-G, Narela in his favour vide Allotment Letter dated 25.10.2017 (Annexure-B) whereas his claim was finally rejected by the EDC on 10.11.2021. Now we shall consider as to what is the legal effect of the issuance of the DS No. 03428 dated 30.10.2017 (Annexure-A) and thereafter allotment of Flat No. 21, Block-A-15, Pocket-4, Ground Floor, Sector-7-G, Narela DS No. 03428 dated 02.06.2017 vide Allotment Letter dated 25.10.2017 (Annexure-B) in his favour and whether any right of allotment was created in favour of the Appellant/ Claimant merely by issuing DS etc. by DDA in his favour.

57. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly according to the merit of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey of 2010-2011 and of July 2017 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.
58. Now coming to the fact of the present case it is pertinent to point out that the bare reading of the Relocation-cum-Allotment Slip (DS) No. 03428 dated 30.10.2017 placed on file shows that the issuance of the DS No. 03428 dated 30.10.2017 (Annexure-A) and allotment of Flat No. 21, Block-A-15, Pocket-4, Ground Floor, Sector-7-G, Narela vide Allotment Letter dated 25.10.2017 (Annexure-B) in his favour was subject to fulfillment of terms and conditions of guidelines issued by DDA and this was subject to final scrutiny of eligibility of the Appellant/ Claimant by the Eligibility Determination Committee (EDC) as per the policy guidelines issued by DDA. Furthermore, The Appellant/ Claimant had also given an undertaking that if any fact/document is/are found to be false/fake, then his provisional allotment would be cancelled. Thus there is no doubt that DDA has made provisional allotment by issuance of the DS No. 03428 dated 30.10.2017 (Annexure-A) and thereafter allotment of Flat No. 21, Block-A-15, Pocket-4, Ground Floor, Sector-7-G, Narela vide Allotment Letter dated 25.10.2017 (Annexure-B) in his favour and this was subject to final scrutiny of eligibility of the Appellant/ Claimant by the Eligibility Determination Committee as per the policy guidelines issued by DDA and right of allotment was created in favour of the Appellant/ Claimant by issuing DS etc. but EDC has wrongly rejected


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the claim of the Appellant/ Claimant solely on the ground that his Voter ID Card could not be verified from the records of AERO AC, 39 inspite of the fact that he was having all the requisite documents and fulfills the eligibility criteria as per the guidelines issued by DDA in view of Mohammad Hakim's case (supra).

59. As per our discussion above, the Appellant/Claimant has placed on file cogent materials on file to show that he along with his family was living in the single storey Jhuggi No. 368 (W-07/B-177) bearing DDA No. 220, Kathputli Colony since long and more particularly on the cutoff date of 01.01.2015. The material placed on file shows that the EDC has wrongly rejected the claim of the Appellant/Claimant on the sole ground that his Voter ID Card could not be verified from the record of AERO-AC-39 inspite of the fact that the Appellant/Claimant was having a valid Voter ID Card No. SMM 1298272 dated 15.01.2010 (Annexure-C), which has been issued much prior to the cutoff date of 01.01.2015 and it has been issued on the address of Jhuggi No. W-07/B-177 regarding which he has been claiming allotment from DDA. The Aadhar Card (Annexure-D) of the Appellant/Claimant has also been issued on the address of Jhuggi No. W-07/B-177 regarding which the Appellant/Claimant has been claiming allotment from DDA. Furthermore, the fact cannot be lost sight that the Appellant/Claimant has got another Voter ID Card bearing No. SMM 1280254 issued on the address of the Jhuggi No. 368, Kathputli Colony and he had used this Voter ID Card to cast vote in the elections of the year 2012 to 2015. The letter dated 12.04.2024 (Annexure-S) of AERO, AC-39, Rajinder Nagar has also verified that the Voter ID card No. SMM 1280254 of the Appellant/Claimant is a valid document as per the records of the Election Commission and further his names appears in the voter list of the years 2012, 2013, 2014 and 2015 (Annexure-T to Annexure-W) and in these voter lists also the number of the Voter ID card of the Appellant/Claimant is mentioned to be bearing No. SMM 1280254. This shows that the Voter ID card No. SMM 1280254 of the Appellant/Claimant is a valid document and further it was used by the Appellant/Claimant to cast vote in the years 2012, 2013, 2014 and 2015 and accordingly this Voter ID was issued much prior to the year 2012 and it was continuously used to cast votes from 2012 to 2015. This shows that the the Voter ID card No. SMM 1280254 of the Appellant/Claimant was in existence in the year 2012, much prior to the cutoff date of 01.01.2015. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 607 in the Voter List of the year 2012 (Annexure-T), at Sl. No. 607 in the Voter List of the year 2013 (Annexure-U), at Sl. No. 578 in the Voter List of the year 2014 (Annexure-V) & at Sl. No. 582 in the Voter List of the year 2015 (Annexure-W).


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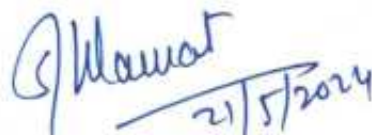

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It is also pointed out that in the Voter Lists (Annexure-T to Annexure-W) the number of the Voter ID Card of the Appellant/Claimant is mentioned to be bearing No. SMM 1280254. The Appellant/Claimant has tendered his Aadhar Card (Annexure-D) which is bearing No. 7893 7185 3711 in which his address is mentioned to be Jhuggi No. W-07/B-177. Moreover, in all the above-mentioned Voter Lists of the years 2012 to 2015 (Annexure-T to Annexure-W) the address of the Appellant/Claimant is mentioned to be Jhuggi No. 368 regarding which he has been claiming allotment from DDA. Furthermore, we have already pointed out that the material placed on file shows that the Jhuggi No. 368 and Jhuggi No. W07/B/177 are one & the same Jhuggi, which is recorded to bearing "DDA No. 280" in the survey records maintained by DDA and accordingly the identity of the Jhuggi of the Appellant/Claimant bearing No. Jhuggi No. 368 or Jhuggi No. 368 (W07/B/177) has been established by the video clip/photograph/survey records prepared by the DDA Survey Team in which the same Jhuggi is proved to be bearing DDA No. 220 and it establishes that the Appellant/Claimant along with his family was living in the Jhuggi No. 368 (W07/B/177) bearing DDA No. 220. Therefore, the material placed on file shows that the Appellant/Claimant was having Aadhar Card and also a valid Voter ID Card on the cutoff date of 01.01.2015 and further his name also appears in the voter list of the year's 2012, 2013, 2014 and 2015.

Further, The Appellant/Claimant has tendered the Voter ID Card No. SMM 1298264 (Annexure-E), Aadhar Card (Annexure-F) & PAN Card (Annexure-H) of his wife Laxmi. The Voter ID Card No. SMM 1298264 (Annexure-E) of Laxmi has been issued on 15.01.2010, much prior to the cutoff date of 01.01.2015 on the address of the Jhuggi No. W-07/B-177. But his wife Laxmi had got another Voter ID Card bearing No. SMM 1280262 issued on the address of the Jhuggi No. 368, Kathputli Colony and she had used her Voter ID Card No. SMM 1280262 to cast vote in the elections of the year 2012 to 2015 and this fact is corroborated by the fact that her name appears at Sl. No. 608 in the Voter List of the year 2012 (Annexure-T), at Sl. No. 608 in the Voter List of the year 2013 (Annexure-U), at Sl. No. 579 in the Voter List of the year 2014 (Annexure-V) & at Sl. No. 583 in the Voter List of the year 2015 (Annexure-W). It is pointed out that in all of the Voter Lists of the Years 2012 to 2015 (Annexure-T to Annexure-W), the number of the Voter ID Card of his wife Laxmi has been mentioned to be SMM 1280262 and further, in all these documents, her address has been mentioned to be Jhuggi No. W-07/B-177, Kathputli Colony, Delhi. Therefore, the material placed on file shows that his wife Laxmi was having Aadhar Card and also a valid Voter ID Card on the cutoff date of 01.01.2015 and further her



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name also appears in the voter list of the year's 2012, 2013, 2014 and 2015.

The Aadhar Card No. 6567 6919 1272 (Annexure-G) of his daughter Renu has been issued on the address of Jhuggi No. W-07/B-177 and further it has been issued on 10.01.2012, much prior to the cutoff date of 01.01.2015. It is pointed out that the Electricity Bill (Annexure-I) & No Dues Certificate (Annexure-J) issued by Tata Power-DDL shows that the electricity connection was taken by his wife Laxmi Devi on 23.01.2016 on the address of the Jhuggi No. W-07/B-177. The old Ration Card No. APL 66290210 (Annexure-K) has been issued on 18.08.2005 in favour of the Appellant/Claimant and the name of his wife & children has been mentioned and it has been issued on the address of the Jhuggi No. 368. The new Ration Card No. 077001897091 (Annexure-L) has been issued in favour of his wife Laxmi and the name of the Appellant/Claimant and both of his children have been mentioned and it has been issued on the address of the Jhuggi No. W-07/B-177. Further, the Report (Annexure-R) downloaded from Internet shows that Laxmi has applied for issuance of Ration Card No. 077001897091 on 26.10.2013 and the same was approved on 26.11.2014. The Gas Connection document (Annexure-M) shows that the Appellant/Claimant had taken the gas connection No. 60855998 on the address of the Jhuggi No. 368 on 06.09.2013, much prior to the cutoff date of 01.01.2015. The Passbook of Indian Bank (Annexure-N) shows that the Appellant/Claimant had opened the account on the address of the Jhuggi No. W-07/B-177. The Appellant/Claimant has also tendered the Voter ID Card (Annexure-X) & Aadhar Card (Annexure-Y) of his son Rahul and both the documents have been issued on the address of the Jhuggi No. B-177. The Voter ID Card No. SMM 1902040 (Annexure-X) of his son Rahul has been issued on 18.10.2010, much prior to the cutoff date of 01.01.2015. These documents also corroborate that the Appellant/Claimant along with his family members was living in the single storey Jhuggi No. 368(W-07/B-177) bearing DDA No. 220, Kathputli Colony since long and much prior to the cutoff date of 01.01.2015. Furthermore, the fact cannot be lost sight that in view of Mohammad Hakim's case (supra) any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the DDA policy has to be considered. It is pointed out that the documents placed on file further corroborates the claim of the Appellant/ Claimant that he as well his family members were having all the requisite documents and he possess one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and accordingly the Appellant/ Claimant is entitled to claim allotment from DDA as per the policy guidelines issued by DDA. But the Eligibility Determination Committee without any basis had


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come to the wrong conclusion that the Voter ID Card could not be verified from the records of the Election Commission and accordingly, the same is not sustainable in the eyes of the law being contrary to the records made available by the Election Commission, therefore, the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA. In the light of our detailed discussion, we have no hesitation in holding that the Appellant/ Claimant was having all the requisite documents and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

60. 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 policy guidelines issued by DDA. But the Eligibility Determination Committee has wrongly and illegally rejected her claim. Hence the present appeal No. 19 of 2023 stands allowed, hereby, setting aside the impugned order communicated vide vide order bearing No. F/KPC (280)13/Survey/LM/WZ/3468 dated 10.11.2021 issued by the Nodal Officer, Kathputli Colony. DDA is hereby directed to make alternative allotment in favour of Appellant/ Claimant, Jaggu Bhatt S/o Hazari Lal, in respect of the single storey Jhuggi No. 368 (W07/B/177) DDA No. 220, Kathputli Colony.
61. 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 Ahlawat)


(Rachna Tiwary)

Jt. Secretary (Retd.) GOI

MEMBER

Addl. District & Sessions Judge (Retd.)

CHAIRMAN

EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF KATHPUTLI COLONY

Date of Order: 18.04.2024

Present: Appellant/ Claimant Jaggu Bhatt S/o Hazari Lal

Sh. Radhey Shyam Meena, Dy. Director, for DDA

The Appeal No. 19 of 2023 has been filed by the present Appellant/ Claimant on 07.02.2022 and the same is placed on file before us today.

It is pointed out that in the month of October 2023 a bunch of about 250 appeals pertaining to Kathputli Colony has been sent to the Appellate Authority for disposal. After receiving of appeals files the same were ordered to be checked & registered and this Appellate Authority has directed to issue notice to procure the presence of the present Appellant/Claimant with the direction that it be got served by deputing official/special messenger and the copy of the same be also pasted on the Notice Board in the Transit Camp, Anand Parbat/Narela as well as on the main gate of the accommodation/flat situated in Transit Camp/Narela in which the Appellant/Claimant is at present living temporarily and in addition to that an attempt be also made by the Call Centre of DDA to intimate the Appellant/Claimant by calling him on his mobile number.

In response to the notice, the Appellant/Claimant has appeared on 18.04.2024. Whereas DDA is being represented by Sh. Radhey Shyam Meena, Dy. Director, for DDA.


The statement of the Appellant/Claimant has been recorded before us on 18.04.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-Y, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

Arguments advanced by the Appellant/Claimant as well as Sh. Radhey Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised. Now to come on 21.05.2024 for orders.


(Ranbir Singh) 18.4.2024


Jt. Secretary (Retd.) GOI

MEMBER


(Satish Ahlawat) 18/4/2024

Addl. District & Sessions Judge (Retd.)

CHAIRMAN


(Rachna Tiwary) 18/4/2024

EXPERT MEMBER

**BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/
REDRESS THE GRIEVANCES RELATED TO DETERMINATION/
RELOCATION OF JJ DWELLERS OF KATHPUTLI COLONY**

Appeal No: 229 of 2023

Date of Institution: 27.10.2023

Date of Order: 22.05.2024

Present: Appellant/ Claimant Manisha D/o Asgar Khan W/o Saddam

Sh. Radhey Shyam Meena, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 10.11.2021 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant has made a Representation to the Competent Authority, thereby, alleging that she is living in Jhuggi bearing No. B-632/435 in Kathputli Colony. A Notice by DDA was pasted in the Kathputli Colony to inform the Jhuggi dwellers about the survey to be conducted in the said basti. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. She was found provisionally eligible and accordingly Relocation-cum-Allotment Slip, which is commonly called as "DS" No. 03130 dated 02.03.2017 was issued in favour of Appellant/Claimant subject to final approval by Eligibility Determination Committee (hereinafter called EDC) on merits after scrutiny of the required documents and her fulfilling the requisite conditions as per the policy guidelines issued by DDA. Further, the Verification Slip dated 12.01.2017 was also issued by DDA in her favour and thereafter, Tripartite Agreement dated 03.03.2017 was also executed. Thereafter, Flat No. 26, Block-A-8, Pocket-04, First Floor, Sector-7G, Narela was allotted to the Appellant/Claimant by DDA by issuing Allotment Letter and the Possession Slip No. 101 dated 04.11.2017 along with Inventory was also issued in her favour. The Appellant/Claimant had also submitted an Affidavit dated 04.11.2017 thereby giving an undertaking that if any fact/document is/are found to be false/forged, then her provisional allotment shall be liable to be cancelled. Further, the Appellant/ Claimant has shifted to Narela after DDA has made provisional allotment in her


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favour. Subsequently, the Eligibility Determination Committee has considered the claim of the Appellant/ Claimant on merits and on verifications of documents submitted by the Appellant/ Claimant the Eligibility Determination Committee has come to the conclusion that the present Appellant/ Claimant does not fulfill the eligibility criteria as per the policy guidelines issued by DDA and accordingly rejected her claim and the Nodal Officer, Kathputli Colony, duly communicated its order bearing No. F/KPC (N-4068)13/Survey/LM/WZ/4179 dated 10.11.2021 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 229 of 2023 has been filed by the present Appellant/Claimant.

3. It is pointed out that in the month of October 2023 a bunch of about 250 appeals pertaining to Kathputli Colony has been sent to the Appellate Authority for disposal. After receiving of appeals files the same were ordered to be checked & registered and this Appellate Authority has directed to issue notice to procure the presence of the present Appellant/Claimant with the direction that it be got served by deputing official/special messenger and the copy of the same be also pasted on the Notice Board in the Transit Camp, Anand Parbat/Narela as well as on the main gate of the accommodation/flat situated in Transit Camp/Narela in which the Appellant/Claimant is at present living temporarily and in addition to that an attempt be also made by the Call Centre of DDA to intimate the Appellant/Claimant by calling him on his mobile number. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam, Dy. Director.
4. The statement of the Appellant/Claimant has been recorded before us on 14.03.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-O, 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. Radhey Shyam, Dy. 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-632/435, Kathputli Colony 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 alternative allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide


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Rejection Order dated 10.11.2021 whereby the reasons for rejection is mentioned to be **"UPPER FLOOR JHUGGI as per policy guidelines separate Ration card is required"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. 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 by taking holistic & realistic view to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a Separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name 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 and whether she is entitled to claim allotment against the first floor of Jhuggi bearing No. B-632/435 as per the policy guidelines issued by DDA.
8. Here it is pertinent to mention that the Appellant/ Claimant has sought alternate allotment under insitu Slum Redevelopment policy against the first floor of Jhuggi No. B-632/435 bearing DDA No. N-4068, Kathputli Colony as per the policy guidelines issued by DDA. The survey was conducted in respect of the said Jhuggi and the documents, i.e., Voter ID Card & Aadhar Card etc. relating to the Appellant/ Claimant & her family members, which were furnished by the Appellant/ Claimant, were also got verified and all the materials including video clips were placed before the Eligibility Determination Committee but it had rejected the claim of the present Appellant/ Claimant and the same was communicated to the Appellant/Claimant by the Nodal Officer, KPC, vide Rejection Order dated 10.11.2021 whereby the reasons for rejection is mentioned to be **"UPPER FLOOR JHUGGI as per policy guidelines separate Ration Card is required"**. This shows that the claim of the Appellant/Claimant was rejected on the sole ground that she was not having separate Ration Card, thereby, showing that DDA has not disputed about the existence of Jhuggi of the Appellant/Claimant on the first floor bearing Jhuggi No. B-632/435 on the cutoff date of 01.01.2015 and using the said Jhuggi for residential purposes and further she was also having all other requisite documents and making compliance of all other mandatory conditions except that she was not having separate Ration Card. Therefore, 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, on the cutoff date of 01.01.2015.


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9. The statement of the Appellant/Claimant Manisha has been recorded before us on 14.03.2024, wherein she has stated that her parents, Asgar Khan & Meena, are having three sons, Sunit, Manish & Anish and five daughters, Sunita, Anita, Rihana, Razia & Manisha. Meena had expired about six months ago whereas Asgar Khan had expired about eight months ago. All the children are married. Sunit is married with Sanno and having seven children. Manish is married with Razia and having two children. Anish is married with Asmina and having one child. Sunita is married with Shokin and she is living in her matrimonial home in Sonapat, Haryana. Rihana is married with Sherdin and she is living in her matrimonial home at Ballabgarh, Haryana. Anita is married with Sharafat and she was living in her matrimonial home in Kathputli Colony and regarding that DDA has made allotment in favour of Anita against her matrimonial side and she had shifted to Transit Camp, Anand Parbat. Razia is married with Javed and she was living in her matrimonial home in Kathputli Colony and regarding that DDA has made allotment in favour of Razia against her matrimonial side and she had shifted to Transit Camp, Anand Parbat. Manisha (Appellant/Claimant) is married with Saddam and having one son, Azhar.

10. The Appellant/Claimant has stated that her family was having a double storey Jhuggi No. B-632/435 and it comprised of two rooms on the ground floor and three rooms on the first floor and a pucca staircase was constructed in the courtyard and it was used for going from the ground floor to the upper floor.

JHUGGI NO. B-632/435 DDA NO. 580

11. The Appellant/Claimant has stated that her parents, Asgar Khan & Meena, along with the families of their sons, Manish & Anish, were living in the first room on the ground floor and two rooms on the first floor and it was a separate dwelling unit bearing Jhuggi No. B-632/435 DDA No. 580 and regarding that DDA has made allotment in favour of her father Asgar Khan and after his death the mutation has been sanctioned in favour of his son Manish and they have shifted to Transit Camp, Anand Parbat. These facts are not disputed by DDA.

JHUGGI NO. B-632/435

12. The Appellant/Claimant has stated that her brother Sunit along with his wife Sanno and all the seven children was living in the second room on the ground floor of the Jhuggi No. B-632/435 and regarding that DDA has made allotment in favour of Sunit and he has also shifted to Transit Camp, Anand Parbat. These facts are not disputed by DDA.

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Mawar
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Rihana
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JHUGGI NO. B-632/435 DDA NO. N-4068

13. The Appellant/Claimant has stated that she along with her husband Saddam and son, Azhar, was living in the third room on the first floor of the Jhuggi No. B-632/435. The Appellant/Claimant has sought allotment from DDA against the said room/Jhuggi on the first floor bearing Jhuggi No. B-632/435 and regarding that DDA has made provisional allotment in her favour by issuing DS No. 03130 dated 02.03.2017 (Annexure-A) & Verification Slip dated 12.01.2017 (Annexure-B) in her favour and further Tripartite Agreement dated 03.03.2017 (Annexure-C) was also executed. Thereafter, Flat No. 26, Block-A-8, Pocket-04, First Floor, Sector-7G, Narela was allotted by DDA to the Appellant/Claimant by issuing Allotment Letter (Annexure-D) and the Possession Slip No. 101 dated 04.11.2017 (Annexure-E) along with Inventory was also issued. The Appellant/Claimant has also submitted an Affidavit dated 04.11.2017 (Annexure-F) wherein she has given an undertaking that if any fact/document is/are found to be false/fake, then her provisional allotment would be cancelled. The Appellant/Claimant had accordingly shifted to Narela after provisional allotment was made by DDA in her favour.
14. The Appellant/Claimant has stated that subsequently her claim was placed before the Eligibility Determination Committee but her claim was rejected by the Eligibility Determination Committee on the ground that she was not having a separate Ration Card, which was a mandatory document for the dwellers claiming allotment against the upper floor in spite of the fact that DDA had already issued DS No. 03130 dated 02.03.2017 (Annexure-A) and Verification Slip dated 12.01.2017 (Annexure-B) in her favour and thereafter, Tripartite Agreement dated 03.03.2017 (Annexure-C) was also executed and further, Flat No. 26, Block-A-8, Pocket-04, First Floor, Sector-7G, Narela was allotted to the Appellant/Claimant vide Allotment Letter (Annexure-D) and the Possession Slip No. 101 dated 04.11.2017 (Annexure-E) along with Inventory was also issued and aggrieved by the same she has filed the present Appeal No.229 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered document, Annexure-A to Annexure-O, in support of her claim and prayed that DDA be directed to make allotment in her favour.
15. DDA has furnished the survey records along with one video clip of Jhuggi No. B-632/435. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 14.03.2024 wherein she has stated the video clip pertains the Jhuggi No. B-632/435 in


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which her father Asgar Khan is seen and getting the survey conducted on the ground floor of the Jhuggi No. B-632/435 and further, his room & kitchen are seen and further, "DDA No. 580" is clearly seen to have been written on the front wall of the said Jhuggi No. B-632/435. However, the video of the Jhuggi on the ground floor of her brother Sunit as well as the video clip of the first floor of the Jhuggi of the Appellant/Claimant are not available.

16. However, no video clip of the double storey Jhuggi bearing No. B-632/435 is made available by DDA and for that the Appellant/Claimant cannot be blamed. It is also pointed out that DDA has placed survey records as well as the Note of EDC dated 05.07.2019 (Annexure-O) on file in which it is mentioned that the Jhuggi of the Appellant/ Claimant was found to exist on the first floor of Jhuggi No. B-632/435 bearing Survey No. N-4068 thereby showing that DDA has nowhere disputed about the existence of the Jhuggi of the Appellant/ Claimant on the first floor bearing Jhuggi No. B-632/435 bearing Survey No. N-4068. The material placed on file accordingly shows that the Jhuggi No. B-632/435 Survey No. N-4068 of the Appellant/ Claimant was found to be separate dwelling unit and the Appellant/ Claimant along with her family was living separately & independently on the first floor of the said Jhuggi on the cutoff date of 01.01.2015 and it was used for residential purposes.

REJECTION OF REPRESENTATION BY EDC VIDE ORDER DATED 31.10.2019

17. Now we shall appraise the material placed on file to show as to how the EDC had proceeded to deal with the claim and more particularly as to whether it was swayed by irrelevant matter or it has determined the claim of the Appellant/ Claimant fairly & independently.
18. It is not disputed that the claim of the Appellant/ Claimant was placed before the Eligibility Determination Committee (hereinafter called EDC). It is pertinent to point out that the claim of the Appellant/ Claimant was rejected by EDC on 31.10.2019 and the Nodal Officer, Kathputli Colony, duly communicated its order bearing No. F/KPC (N-4068)13/Survey/LM/WZ/4179 dated 10.11.2021 to the present Appellant/Claimant and the note of the EDC dated 05.07.2019 (Annexure-O) is reproduced for better understanding of the facts and the grounds on which the claim of the present Appellant/ Claimant was rejected, as under: -

EDC Note dated 05.07.2019 (Annexure-O)

"Ineligible- As Jhuggi exist at first floor. As per policy guidelines of B of Part 10, eligibility criteria for 1st floor, Ration Card is required. Does not have separate ration. Hence is declared in-eligible as per guidelines."

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19. The survey records placed on file shows that the Jhuggi of the Appellant/ Claimant was found to exist on the first floor bearing Jhuggi No. B-632/435 Survey No. N- 4068 but her claim was rejected by EDC on 31.10.2019 on the sole ground that she was not having separate Ration Card, which was mandatory document for the dwellers claiming allotment from DDA against the upper floor. The bare perusal of the Note dated 05.07.2019 (Annexure-O) also shows that it is nowhere disputed by DDA as far as the existence of the Jhuggi of the Appellant/ Claimant on the first floor bearing Jhuggi No. B-632/435 Survey No. N 4068 and the Appellant/ Claimant along with her family living there separately & independently and using it for residential purposes is concerned but her claim was rejected on the sole ground that she was not having separate Ration Card inspite of the fact that she is claiming allotment against the first floor bearing Jhuggi No. B-632/435 Survey No. N 4068. The requirement of separate Ration Card for the dwellers claiming allotment against the first floor shall be discussed in detail by us in the later part of this order. Thus the fact remains that the Appellant/ Claimant was having a separate dwelling unit on the first floor bearing Jhuggi No. B-632/435 Survey No. N-4068 and she was having all the requisite documents except the separate Ration Card.
20. There is nothing to disbelieve the statement of the Appellant/Claimant as it has been corroborated by the survey records prepared by the survey team of DDA as well as reflected in the EDC Note (Annexure-O) and accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-632/435 was a pucca & an old construction and it was very much in existence much prior to the cutoff date of 01.01.2015 and both the floors were different dwelling units and further her parents, Asgar Khan & Meena, along with the families of their sons, Manish & Anish, were living in the first room on the ground floor and two rooms on the first floor and it was a separate dwelling unit bearing Jhuggi No. B-632/435 DDA No. 580 and regarding that DDA has made allotment in favour of her father Asgar Khan and after his death the mutation has been sanctioned in favour of his son Manish and they have shifted to Transit Camp, Anand Parbat. And further her brother Sunit along with his wife Sanno and all the seven children was living in the second room on the ground floor of the Jhuggi No. B-632/435 and regarding that DDA has made allotment in favour of Sunit and he has also shifted to Transit Camp, Anand Parbat. Whereas the Appellant/ Claimant along with her family was living separately & independently in the second room on the first floor of the said Jhuggi on the cutoff date of 01.01.2015 and it was bearing Jhuggi No. B-632/435 Survey No. N-4068 and the


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Appellant/ Claimant was using the said Jhuggi for residential purposes.

21. Accordingly, we have no hesitation in holding that the Appellant/ Claimant along with her family was living separately & independently on the first floor of Jhuggi No. B-632/435 Survey No. N-4068 on the cutoff date of 01.01.2015 and the Appellant/ Claimant was using the said Jhuggi for residential purposes.
22. 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 of Jhuggi No. B-632/435 Survey No. N-4068 as per the policy guidelines issued by DDA.
23. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-0, in support of her claim and prayed that DDA be directed to make allotment in her favour against the first floor of Jhuggi No. B-632/435 Survey No. N-4125.
24. 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 cutoff 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 cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff 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. Accordingly, there is no illegality in the impugned rejection order bearing No. F/KPC (N-4068)13/Survey/LM/WZ/4179 dated 10.11.2021.
25. 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.

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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."

26. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMENTS OF DOCUMENTS

27. As per Clause 1 (6) Part-B 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 in Clause 2. 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 one of the documents out of list of 12 documents.

28. Thus the bare perusal of the Policy shows that for claiming allotment against the **ground floor** the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff 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


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in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMENTS OF DOCUMENTS

29. As already pointed out above, condition contained in Clause 1 (10) of Part-B 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."

30. Thus Clause 1 (10) of Part-B 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. Therefore, the dweller, who is not having ration card, will not be eligible for allotment even if he possesses any one of the documents out of list of 12 documents.

31. Thus the bare perusal of the Policy shows that for claiming allotment against the first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff 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 and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against the upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

32. The bare perusal of the Policy shows that different criterion has been provided for the JJ dwellers claiming alternative allotment against the ground & first floors in the DDA policy because the dweller, who is claiming allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming allotment against the upper floor, to have a ration card issued before the cutoff date of 01.01.2015. Dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the



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requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor so on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. But both are required to be treated on parity irrespective of that whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

33. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the point of ration card was not discussed. Therefore, this Appellate Authority changed its view by taking a conservative approach on the requirement of ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and have decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.
34. Now the matter has been settled by way of judicial pronouncement as the legality of requirement of a Ration Card as a mandatory document for the dwellers claiming allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the Hon'ble High Court of Delhi in the case of "**Mohammad Hakam and Another versus Delhi Development Authority**" in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022".
35. The facts of the Mohammad Hakim's case (supra) are that the claim of Petitioner No. 1 (before the Hon'ble High Court) was rejected by the EDC and aggrieved by the same he had filed Appeal No. 61 of 2017/04/2017 before this very Appellate Authority and his appeal was allowed by this Appellate Authority vide order dated 30.01.2019 thereby holding that he fulfills the eligibility criteria as per the guidelines issued by DDA, however, the EDC has wrongly and illegally rejected

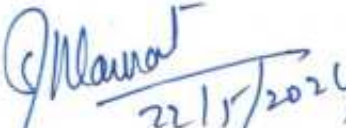

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his claim and accordingly DDA was directed to make allotment in his favour with respect to Jhuggi No. E-278, Kathputli Colony. But the order of the Appellate Authority dated 30.01.2019 was set aside by the Administrative Department of DDA and aggrieved by the same Petitioner No. 1 has filed Writ Petition bearing No. W.P. (C) 1585/2022 before the Hon'ble High Court of Delhi. Similarly, the claim of Petitioner No. 2 (before the Hon'ble High Court) was rejected by the EDC and aggrieved by the same he had filed Appeal No. 40 of 2017 before this very Appellate Authority and his appeal was allowed by this Appellate Authority vide order dated 17.08.2018 thereby holding that he fulfills the eligibility criteria as per the guidelines issued by DDA because it was held that the applicant had applied for issuing separate ration card but the concerned authority had refused to issue a separate ration card because of policy of the concerned Food Department and not due to any default or inaction or lapse on his part and thus he had explained the reasons of non issuance of separation card by the Food & Civil Supply Department in his individual name pertaining to the first floor of the Jhuggi in question even though he was living separately & independently, however, the EDC has wrongly and illegally rejected his claim and accordingly DDA was directed to make allotment in his favour with respect to Jhuggi No. E-81, Kathputli Colony. But the order of the Appellate Authority dated 17.08.2018 was set aside by the Administrative Department of DDA and aggrieved by the same Petitioner No. 2 has filed Writ Petition bearing No. W.P. (C) 1585/2022 before the Hon'ble High Court of Delhi. Similarly, the claim of Petitioner No. 3 (before the Hon'ble High Court) was rejected by the EDC and aggrieved by the same he had filed Appeal No. 01 of 2017 before this very Appellate Authority and his appeal was allowed by this Appellate Authority vide order dated 19.07.2018 thereby holding that he fulfills the eligibility criteria as per the guidelines issued by DDA because it was held that the applicant had explained the reasons of non issuance of separation card by the Food & Civil Supply Department in his individual name pertaining to the first floor of the Jhuggi in question even though he was living separately & independently, however, the EDC has wrongly and illegally rejected his claim and accordingly DDA was directed to make allotment in his favour with respect to Jhuggi No. B-643, Kathputli Colony. But the order of the Appellate Authority dated 19.07.2018 was set aside by the Administrative Department of DDA and aggrieved by the same Petitioner No. 3 has filed Writ Petition bearing No. W.P. (C) 2514/2022 before the Hon'ble High Court of Delhi. Both the Writ Petitions bearing W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022" were consolidated.


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However, pursuant to the filing of the writ petition the case of the petitioner No. 1 was re-examined and reviewed by the competent authority of DDA and it was found that his case was inadvertently recommended for 'non-acceptance' by the competent authority due to mixing of his records with other 62 cases, therefore, DDA rectified its mistake by withdrawing the impugned letter of rejection and granting the relief as sought by him in the writ petition. But the relief claimed by the respondent No. 2 & 3 was contested on merit and was decided on 29.02.2023 by **the Hon'ble High Court of Delhi whereby the decisions of the Appellate Authority was upheld thereby setting aside the impugned orders passed by the Administrative Department/Nodal Officer of DDA** wherein it has been held as under: -

"81. In this backdrop, this Court deems it apposite to discuss the concept of Ration card and the aim of issuing the same.

82. The term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System.

83. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder.

84. Moreover, this Court shall now peruse the Para 4(6) of Gazette notification No. G.S.R. 104(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution which disallows the use of ration card as a document of identity or proof of residence. The relevant extract has been reproduced herein below:

"4. Ration Cards.-

XXX


(6) Ration card shall not be used as a document of identity or proof of residence."

85. Hence, ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism setup by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card.

86. The aim of the ration card is to ensure that the citizens of this country are provided foodgrains at a reasonable price. Hence, it is not reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System.

87. Therefore, the respondent has wrongly put reliance on the ration card as proof of


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address since it did not take into consideration the aforesaid discussed gazette notification, definition of ration card as well as the intent behind issuance of the same.

88. Furthermore, in the instant petition the petitioners contended that they have applied for Ration Cards, however, they have not been issued the same by the Competent Authority. In this regard, the Court shall discuss the order of the Coordinate Bench of this Court in writ petition bearing no. **Shanti Devi vs Union of India**¹ wherein the petitioner applied for the ration card in the year 2013 (8 years before), however, she was not issued the same for the last 8 years, despite giving several representations. The afore discussed order has been reproduced herein below:

"1. The petitioner, who claims to be falling within the category of persons Below Poverty Line (BPL)" has approached this Court with the grievance that despite repeated representations made by her, she has not been issued a ration card for the last eight years.

2. On the last date, Mr. Narayan, learned counsel for respondent nos.2 to 4 was granted time to obtain instructions. Today, he submits that no ration card could be issued to the petitioner as the limit for issuance of 72 lakh ration cards set by respondent no. 1, based on the Census of 2011, already stands exhausted and therefore, the respondents nos.2 to 4 cannot be faulted for not having issued a ration card to the petitioner."

89. In view of the aforesaid order, it is pertinent to note that ration cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limit for issuance of Ration Card has already been exhausted, therefore, even if a person is eligible to be issued Ration Card, he/ she shall not be issued the same.

90. Hence, in light of the aforesaid submissions by the learned counsel for the Delhi Government in the aforesaid writ petition, this Court is of the considered view that the contention of the petitioners in the instant batch of petitions regarding non- issuance of Ration Card holds water.

91. Keeping in mind the aforesaid circumstances, this Court is of the view that mere non-issuance of a Ration Card cannot be a ground for denial of the alternative allotment to the petitioners. The respondent should have introspected into the issue and accordingly, should have taken step to alleviate issues faced by the poor dwellers of the Kathputali Colony.

92. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Moreover, it is responsibility of the respondent that they should have introspected into the intent and motive behind issuing of the Ration Card which is distribution of food


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through Public Distribution System.

93. Therefore, the requirement of a Ration Card as mandatory document to be produced before the respondent as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. The respondent should have exercised due caution and care before adhering to such a requirement. It should take a fair and realistic view of the circumstances before it.

94. The respondent should introspect on the fact that how much harassment and pain must have been caused to the petitioners due to such arbitrary requirements. The afore discussed actions of the respondent is in clear violation of the petitioners' right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of this Court in the judgment of **Udal v. Delhi Urban Shelter Improvement Board and Ors² 2017 SCC OnLine Del 9715** as follows:

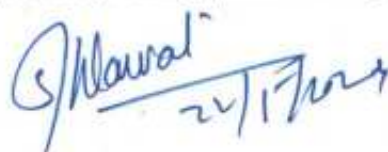
"15. It is trite that the right to housing is an essential part of Right to Life and a fundamental right ensured by Article 21 of the Constitution of India. It has also been held that the right to life is not right to merely an animal existence but an entitlement to reasonable accommodation (Ref.: (1996) 2 SCC 549, Chameli Singh v. State of U.P. and (1990) 1 SCC 520, Shantistar Builders v. Narayan Khimalal Totame). The contours of this right were further expanded by a pronouncement of the Supreme Court reported at (1997) 11 SCC 121, Ahmadabad Municipal Corporation v. Nawab Khan Gulab Khan wherein the court held that when slum dwellers have been residing at a place for some time, it became the duty of the government to make schemes for housing these jhuggi dwellers. Relying on the principles laid down in these judgments, this court in 168 (2010) DLT 298, Sudama Singh v. Government of Delhi has relied upon the provisions of the Delhi Master Plan and emphasized in-situ rehabilitation of the slum dwellers.

16. Judicial notice can be taken of the fact that the National Capital Territory of Delhi attracts people, especially poor people, from all over the country who come to the city in search of work and must reside reasonably near to their place of work. In recognition of the responsibility to house the poor in a permanent humane manner, the Government of NCT of Delhi announced "Delhi Slum and JJ Rehabilitation and Relocation Policy, 2015". Under Clause 2(a), Delhi Urban Shelter Improvement Board („DUSIB" hereafter) was appointed as the nodal agency for implementation of the policy."

95. Accordingly, this Court is also of the view that the petitioners' right to housing shall be kept at the highest pedestal. It is one of the safeguards provided in our Constitution and the legacy has been carried forward by the writ Court by way of various judicial precedents which reiterates the same.

96. In the instant petitions, the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's


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jurisdiction over quasi-judicial matters already adjudicated upon by the appellate authority. This aforesaid act of the Nodal officer of the respondent underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petition are set-aside.

97. The decision of the appellate authority is upheld which held that the petitioners are in possession of other documents as stipulated by Clause 2 of the Policy as well as the aforesaid documents are issued before the cut-off date, hence, the petitioners are entitled for an alternative dwelling unit and their claims shall be admitted by the respondent.

98. Accordingly, this Court holds that the impugned orders passed by the Nodal Officer of the respondent are liable to be set-aside.

CONCLUSION


99. The afore-discussed actions of the respondent, ostensibly operating within the framework of legality, struck at the heart of justice, undermining the very principles upon which the judicial system purportedly stands. Subsequent to the petitioners' challenge of the initial rejection, the issuance of a second letter of rejection by the respondent compounded the petitioners' anguish. This second rejection purportedly cited new reasons for denial, yet failed to withstand scrutiny in light of legal precedents previously established by the writ Courts and of particular note was the justification provided by the respondent for the second rejection, namely, the purported non-filing of a ration card by the petitioner. Such a justification, given the petitioner's provision of alternative legal proofs of identity consistent with statutory requirements and prior judicial interpretation, underscored the arbitrary nature of the respondent's actions.

100. The petitioner's distress, exacerbated by the respondent's actions, exemplified the inherent flaws within the legal system, which too often favours the powerful over the marginalized. The respondent's actions, shielded by the veneer of legality, served to perpetuate systemic injustices, leaving the petitioners vulnerable.

101. The Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the jhuggis there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the jhuggis especially in the light of the paragraph no. 4(6) of Gazette Notification No. G.S.R. 104(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution which disallows the use of ration card as a document of identity or proof of residence. Moreover, the intent of issuance of Ration Card is distribution of essential food items by Public Distribution System and hence, it does not intent on being used as an identity proof or an address proof.

102. Hence, the Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 (PART-B) has


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wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card.

103. This Court is of the view that the respondent shall consider other documents issued before the cut-off date i.e., 1st January 2015 as enlisted in Clause 2 of The Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 (PART-B) which are as follows: Passport, 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 (except EPIC), Pass book issued by Public Sector Banks/ Post Office with photograph, SC/ST/OBC Certificate issued by the Competent Authority Pension document with photograph such as Ex-serviceman's Pension Book, Pension Payment Order, Ex-serviceman widow/dependent certificate, old age pension order or widow pension order, Freedom Fighter Identity Card with photograph, Certificate of physically handicapped with photograph issued by the Competent Authority, Health Insurance Scheme Smart card with photograph (Ministry of Labour scheme, Identity card with photograph issued in the name of the descendants) of the slum dweller from a Government school or Certificate with photograph issued by the Principal of a Government School mentioning therein that the descendants) of the JJ dweller is/was the student of the school.

104. In view of the aforesaid discussion, the impugned orders dated 3rd July 2020 in both writ petitions are quashed by this Court by way of exercising its jurisdiction vested under Article 226 of the Constitution of India. Accordingly, the instant petitions are allowed.

105. This Court directs the respondent to allocate an alternative dwelling unit in favor of the petitioners subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of The Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 (PART-B) issued before the cut-off i.e., 1st January 2015, the deposit of amount as stipulated by the respondent as well as any other requirement as mandated by the respondent.

106. Accordingly, the instant petitions alongwith pending applications, if any, are disposed of.

107. The judgment to be uploaded on the website forthwith."

36. The Hon'ble High Court had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card


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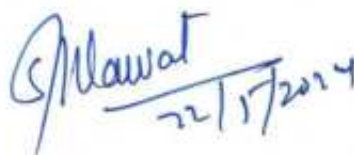

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holder. Furthermore, the Para 4(6) OF Gazette Notification No. G.S.R. 104(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

37. It is further held that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.
38. It was also pointed out that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separation card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.
39. It is further held that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over


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quasi-judicial matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set aside thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The decision of the Appellate Authority were upheld, which held that the petitioners were in possession of other documents as stipulated by Clause 2 of the Policy as well as the aforesaid documents are issued before the cut-off date, hence, the petitioners were held entitled for an alternative dwelling unit and their claims shall be admitted by the respondent/DDA and accordingly, the impugned orders passed by the Nodal Officer of the DDA were set aside.

40. Therefore, the facts of the present appeal are squarely covered by the facts of the Mohammad Hakim's case (supra) wherein the Hon'ble High Court of Delhi has held that the DDA policy as per Clause (1) (x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggis there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis and it has been held that the DDA policy, 2015 (PART-B) has wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered.
41. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor. In view of our discussion above, the bare perusal of the DDA Policy 2015 in the light of judgment in Mohammad Hakim's case (supra) shows that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card &


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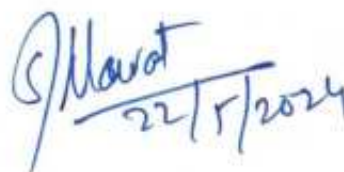

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also that the name of JJ dwellers must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

GIST OF THE POLICY

42. In the light of our discussion above, we shall now appraise the material placed on file by 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 and whether she possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the first floor of Jhuggi No. B-632/435 Survey No. N-4068 as per the policy guidelines issued by DDA.
43. Here it is pertinent to mention that we have already pointed out that the Appellant/ Claimant has sought alternate allotment under insitu Slum Redevelopment policy against the first floor of Jhuggi No. B-632/435, Kathputli Colony as per the policy guidelines issued by DDA. The survey was conducted in respect of the said Jhuggi and the documents, i.e., Voter ID Card & Aadhar Card etc. relating to the Appellant/ Claimant & her family members, which were furnished by the Appellant/ Claimant, were also got verified and all the materials including video clips were placed before the Eligibility Determination Committee but it has rejected the claim of the present Appellant/ Claimant and the same was communicated to the Appellant/Claimant by the Nodal Officer, KPC, vide Rejection Order dated 10.11.2021 whereby the reasons for rejection is mentioned to be **"UPPER FLOOR JHUGGI as per policy guidelines separate Ration Card is required"**. This shows that the claim of the Appellant/Claimant was rejected on the sole ground that she was not having separate Ration Card, thereby, showing that DDA has not disputed about the existence of Jhuggi of the Appellant/Claimant on the first floor bearing Jhuggi No. B-632/435 on the cutoff date of 01.01.2015 and using the said Jhuggi for residential purposes and further she was also having all other requisite documents and making compliance of all other mandatory conditions except that she was not having separate Ration Card. Therefore, 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,


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on the cutoff date of 01.01.2015.

44. The Appellant/Claimant has tendered her Voter ID Card No. SMM 2665826 (Annexure-G), Aadhar Card (Annexure-H), PAN Card (Annexure-I) and Voter List of the year 2015 (Annexure-N) in support of her claim.
45. It is pointed out that the Voter ID Card No. SMM 2665826 (Annexure-G) of the Appellant/Claimant has been issued on 15.11.2013 much prior to the cutoff date 01.01.2015. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 913 in the Voter List of the year 2015 (Annexure-N). It is pointed out that the number of the Voter ID Card of the Appellant/Claimant in the Voter List of the year 2015 (Annexure-N) is mentioned to be bearing number SMM 2665826. The Aadhar Card (Annexure-H) of the Appellant/Claimant is bearing number 4635 5650 0643. It is pointed out that in the Voter ID Card (Annexure-G), the Aadhar Card (Annexure-H) & the Voter List of the year 2015 (Annexure-N) the address of the Appellant/Claimant is mentioned to be bearing Jhuggi No. B-632/435 regarding which the Appellant/Claimant has been claiming allotment from DDA. Therefore, the material placed on file shows that the Appellant/Claimant was having Aadhar Card and also a valid Voter ID Card on the cutoff date of 01.01.2015 and further her name also appears in the voter list of the year's 2015 but her name does not feature in the voter list of the year's 2012, 2013 & 2014.
46. Now the moot question is whether the claim of the Appellant/Claimant is liable to be rejected solely because her name does not appear in the voter list of the year's 2012, 2013 and 2014 even though she was having a valid Voter ID Card & Aadhar Card on the cutoff date of 01.01.2015 and further her name also appears in the voter list of the year's 2015.
47. On this aspect it is pointed out that Voter Lists are not revised every year but under Section 21 of the Representation of the People Act, 1951 it is revised
- (i) before each general election to the House of People or
 - (ii) to the Assembly of a State or
 - (iii) before bye-election or
 - (iv) in any year if such revision has been directed by the Election Commission.
48. It is pointed out that the Voter ID card is issued when any citizen attains the age of 18 years. Therefore, if a dweller attains 18 years of age in the month of November 2013 and he/she


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obtains the Voter ID Card before the cutoff date of 01.01.2015 then he/she cannot be disallowed alternative allotment simply because his/her name 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 because the question of his/her name appearing in the Voter lists of the year 2012 & 2013 does not arise as the Voter ID card has been issued very late but prior to the cutoff date of 01.01.2015. Therefore, this narrow technical approach will make the possession of Voter ID Card on the cutoff date of 01.01.2015 a mere formality with no right attached to it thereby resulting into miscarriage of justice because the claim of eligible dwellers would be thrown on the ground that they do not possess the Voter list of the years 2012 to 2015 even though they possess all the relevant documents to show that they have been continuing living in the Jhuggi since long and more specifically on the cutoff date of 01.01.2015. The correct interpretation of the policy guidelines issued by DDA by taking holistic & realistic view to determine the eligibility and our endeavor should be to find out whether there are other cogent & material supporting documents to show that the dweller was in actual physical possession of the Jhuggi regarding which he is claiming allotment from DDA on the cutoff date of 01.01.2015 as well as in the years from 2012 to 2015.

49. It is pertinent to point out that the DUSIB policy has been adopted by DDA. The legal question as to whether the claim of JJ dweller is liable to be rejected solely because his name does not appear in Electoral Rolls of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey even though he was having a valid Voter ID Card on the cutoff date of 01.01.2015 and also in spite of the fact that he also possess other documents to corroborate his residence and existence in the concerned Jhuggi Jhopri basti was the matter directly involved in the matter before Hon'ble High Court of Delhi relating to the DUSIB policy, which had been adopted by DDA, and it has been dealt in the judgment of **Udal v. Delhi Urban Shelter Improvement Board and Ors² 2017 SCC OnLine Del 9715**.
50. It is pointed out that in Udal's case (supra) the Hon'ble High Court of Delhi has found that the petitioners have produced the documents, including the National Food Security Card, Ration Card, Gas/Oil Bill, Electricity Bill, BSES Meter Change Report, School Leaving Certificates, School Progress Report of Children, Report Card of Children, Aadhar Cards, Driving Licences, Passbooks, PAN Card, Death Certificate of the Spouse of one of the parties, LIC Policy but they could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy. The Hon'ble High court held as under: -

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"33.Therefore, even though these petitioners could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy, however, if an holistic view is undertaken of the documentation as produced, it would amply establish the residence and existence of these persons at the Rajiv Camp for the periods from 1998 till 2016."

"38. Mr. Parvinder Chauhan, Id. Standing Counsel for respondent no.1 has staunchly contended that the requirement of Clause 1(iii) of Part-B of R& R Policy to the effect that the name of the person must feature in the electoral roll for any of the prescribed five years, is mandatory and the failure for the name to appear in such electoral roll must be fatal so far as consideration for allotment of alternative flat for rehabilitation under the R&R Policy is concerned. In the given facts and circumstances, we are unfortunately unable to agree with this submission. The records placed by these persons include National Food Security Cards, Ration Cards, Oil/Gas Bill, SC/ST Certificates, Electricity Bill, LIC Policies, Gas Connection Records and Bills, Driving Licences, Passbooks, Birth Certificate of Children as well as records of School Admission of Children, their Progress Report Cards, all of which show their continued existence on the spot. A realistic view has to be taken in this regard. We find that the persons who were found ineligible were in possession of public identification including Voter ID - cards. The failure of the names of such persons to feature in the electoral roll could be for any number of reasons. The same could happen, if the person was not at home at the time the Booth Level Officer visited Jhuggi of the person concerned. This could be on account of the occupation of the person or for the person and adults of the family having left the Jhuggi for work. Obviously, the Booth Level Officer or any persons conducting the survey would not have met the adult members of the family. There would thus not be any adult members of the family to give the information for names to be included in the electoral rolls."

"40. We find that as per Clause 2 of PART - B of the R&R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents. In the above cases, the Jhuggi Jhopri dwellers have produced multiple records ranging to periods in the late 1990s till date. In this view of the matter, the persons detailed in paras 37 and 38 above are clearly entitled to the benefit of the policy. We are of the view that the ineligibility letter dated 22nd December, 2016 by the respondents have been issued to these persons because of a disjoint reading of Clause 1(iii) and Clause 2 of PART - B of the policy. The same ought to be read together and a


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conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1(iii) and Clause 2 of Part-B of the R&R Policy, 2015."

51. Therefore, the present appeal is squarely covered by the facts of Udal's case (supra) decided by the Hon'ble High Court of Delhi wherein it has been held that as per Clause 2 of PART-B of the R & R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents and we cannot give a disjoint reading of Clause 1 (iii) and Clause 2 of PART – B of the policy but the same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1 (iii) and Clause 2 of PART-B of the R & R Policy, 2015.
52. On this aspect it is pertinent to point out that when the Jhuggi of the Appellant/Claimant is found to exist on the cutoff date of 01.01.2015 and she is also found to be having a Aadhar Card and also a valid Voter ID Card on the cutoff date of 01.01.2015 and also she possesses any one document out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 then her claim can not be rejected by taking hyper technical view merely because her name does not appear in the voter list of the year's 2012, 2013 and 2014 especially when she was having a valid Voter ID Card dated 15.11.2013 (Annexure-G) on the cutoff date of 01.01.2015 and further her name also appears in the voter list of the year 2015 (Annexure-N) and she as well her family are having documents to show that they have been living in the said Jhuggi much prior to the cutoff date of 01.01.2015.
53. There is no dispute that the Appellant/Claimant is having a valid Voter ID Card No. SMM 2665826 dated 15.11.2013 (Annexure-G), which have been issued much prior to the cutoff date of 01.01.2015 and also Aadhar Card (Annexure-H). Since the Voter ID Card (Annexure-G) has been issued on 15.11.2013 the question of her name appearing in the Voter List of the years 2012 & 2013 does not arise. Further, the Appellant/Claimant has not tendered the Voter List of the year 2014 as the records is not available with the Election Commission pertaining to the yearly/Annually details for the years of 2014 relating to the Voter ID Card No. SMM 2665826 dated 15.11.2013 (Annexure-G) of the present Appellant/Claimant thereby showing that the Election Commission is not having the Voter List of the years 2014 but it is having the Voter List of the year 2015. Therefore, the reasons for not tendering the Voter List of the year 2012, 2013 & 2014 is well explained in the present case. Thus the Appellant/Claimant cannot be penalized for not having Voter List of the years 2012, 2013 & 2014 when it was not prepared / available


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with the Election Commission.

54. Now we shall appraise the material placed on file to determine as to whether there are documents placed on file to show that the Appellant/Claimant along with her family was living in Jhuggi No. B-632/435 Survey No. N-4068 since long and more particularly on the cutoff date of 01.01.2015 and whether they have got the documents issued in their favour prior to the cutoff date of 01.01.2015 to lend support to the claim put forward by the Appellant/Claimant.
55. The Appellant/Claimant has tendered the Voter ID Card No. SMM 288763 (Annexure-J), Aadhar Card (Annexure-K) & RC of Motor Cycle (Annexure-L) of her husband Saddam and Ration Card No. 077001896708 (Annexure-M) in support of her claim.
56. It is pointed out that the Voter ID Card No. SMM 288763 (Annexure-J) of her husband Saddam has been issued on 31.10.2017 and RC of Motor Cycle (Annexure-L) has been issued on 18.02.2020. The Aadhar Card (Annexure-K) of her husband Saddam is bearing number 3556 2001 2203. It is pointed out that in the Voter ID Card (Annexure-J), the Aadhar Card (Annexure-K) & RC of Motor Cycle (Annexure-L) the address of the Appellant/Claimant is mentioned to be bearing Jhuggi No. B-632/435 regarding which the Appellant/Claimant has been claiming allotment from DDA. It is pointed out that Ration Card No. 077001896708 (Annexure-M) has been issued in favour of her mother Meena and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. It is also pointed out that the Appellant/Claimant has categorically stated that she had applied for issuance of separate Ration Card in her favour but the same was not issued by the concerned Food & Civil Supply officer on the ground that already joint Ration Card including the name of the Appellant/Claimant has been issued in favour of her mother Meena. It is pointed out that all these documents have been issued on the address of Jhuggi No. B-632/435 regarding which the Appellant/Claimant has been claiming allotment from DDA. These documents also corroborate that the Appellant/Claimant along with her family members was living in the Jhuggi No. B-632/435 Survey No. N-4068 since long and much prior to the Cutoff date of 01.01.2015.
57. The Appellant/Claimant has tendered Voter ID Cards & Aadhar Cards belonging to her and family members, Electoral Rolls, Driving License & Ration Card and all these documents have been issued from 2013 to 2015 and it accordingly amply establishes that she as well as her family members have been living on the first floor of the Jhuggi No. B-632/435 Survey No. N-4068, Kathputli Colony, since long and more particularly on the cutoff date of 01.01.2015 and


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accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

58. The Appellant/ Claimant has contended that her claim was ultimately rejected by the Eligibility Determination Committee vide order dated 10.11.2021 in spite of the fact that much earlier to that DDA has made provisional allotment by issuing the DS No. 03130 dated 02.03.2017 (Annexure-A) & Verification Slip dated 12.01.2017 (Annexure-B) in her favour and thereafter, Tripartite Agreement dated 03.03.2017 (Annexure-C) was also executed and further, Flat No. 26, Block-A-8, Pocket-04, First Floor, Sector-7G, Narela was allotted to the Appellant/Claimant vide Allotment Letter (Annexure-D) and the Possession Slip No. 101 dated 04.11.2017 (Annexure-E) along with Inventory was also issued in her favour but these facts were not duly considered by EDC. Accordingly, he has come before us thereby challenging the order of rejection dated 10.11.2021.
59. It is not disputed that DDA has made provisional allotment in favour of the present Appellant/ Claimant and had issued the DS No. 03130 dated 02.03.2017 (Annexure-A) & Verification Slip dated 12.01.2017 (Annexure-B) in her favour and thereafter, Tripartite Agreement dated 03.03.2017 (Annexure-C) was also executed and further, DDA has allotted Flat No. 26, Block-A-8, Pocket-04, First Floor, Sector-7G, Narela to the Appellant/Claimant vide Allotment Letter (Annexure-D) and the Possession Slip No. 101 dated 04.11.2017 (Annexure-E) along with Inventory was also issued in her favour whereas her claim was finally rejected by the EDC on 10.11.2021. Now we shall consider as to what is the legal effect of the issuance of the DS No. 03130 dated 02.03.2017 (Annexure-A) & Verification Slip dated 12.01.2017 (Annexure-B) in her favour and thereafter, execution of the Tripartite Agreement dated 03.03.2017 (Annexure-C) and further, allotment of Flat No. 26, Block-A-8, Pocket-04, First Floor, Sector-7G, Narela and issuance of the Possession Slip No. 101 dated 04.11.2017 (Annexure-E) along with Inventory in her favour and whether any right of allotment was created in favour of the Appellant/ Claimant merely by issuing DS etc. by DDA in her favour.
60. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly according to the merit of the individual case as


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per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey of 2010-2011 and of July 2017 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

61. Now coming to the fact of the present case it is pertinent to point out that the bare reading of the Relocation-cum-Allotment Slip (DS) No. 03130 dated 02.03.2017 placed on file shows that the issuance of the DS No. 03130 dated 02.03.2017 (Annexure-A) & Verification Slip dated 12.01.2017 (Annexure-B) in her favour and thereafter, execution of the Tripartite Agreement dated 03.03.2017 (Annexure-C) and further, allotment of Flat No. 26, Block-A-8, Pocket-04, First Floor, Sector-7G, Narela by DDA to the Appellant/Claimant vide Allotment Letter (Annexure-D) and execution of the Possession Slip No. 101 dated 04.11.2017 (Annexure-E) along with Inventory in her favour was subject to fulfillment of terms and conditions of guidelines issued by DDA and this was subject to final scrutiny of eligibility of the Appellant/ Claimant by the Eligibility Determination Committee (EDC) as per the policy guidelines issued by DDA. Furthermore, The Appellant/ Claimant had also submitted an Affidavit dated 04.11.2017 (Annexure-F) thereby giving an undertaking that if any fact/document is/are found to be false/fake, then her provisional allotment would be cancelled. Thus there is no doubt that DDA has made provisional allotment by issuance of the DS No. 03130 dated 02.03.2017 (Annexure-A) & Verification Slip dated 12.01.2017 (Annexure-B) in her favour and thereafter, execution of the Tripartite Agreement dated 03.03.2017 (Annexure-C) and further, allotment of Flat No. 26, Block-A-8, Pocket-04, First Floor, Sector-7G, Narela was allotted to the Appellant/Claimant vide Allotment Letter (Annexure-D) and issuance of the Possession Slip No. 101 dated 04.11.2017 (Annexure-E) along with Inventory in her favour and this was subject to final scrutiny of eligibility of the Appellant/ Claimant by the Eligibility Determination Committee as per the policy guidelines issued by DDA and right of allotment was created in favour of the Appellant/ Claimant by issuing DS etc. but EDC has wrongly rejected the claim of the Appellant/ Claimant solely on the ground that she was not having separate Ration Card inspite of the fact that she was having all the requisite documents and fulfills the eligibility criteria as per the guidelines issued by DDA especially when there is no requirement of separate Ration Card for the dwellers claiming allotment against the upper floor in view of Mohammad Hakim's case (supra).

62. The fact can not be lost that the Appellant/Claimant is having a valid Voter ID Card No. SMM 2665826 dated 15.11.2013 (Annexure-G), which has been issued much prior to the cutoff date



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of 01.01.2015 and it has been issued on the address of Jhuggi No. B-632/435 regarding which she has been claiming allotment from DDA. The Aadhar Card (Annexure-F) of the Appellant/Claimant is bearing number 4635 5650 0643 and further it has also been issued on the address of Jhuggi No. B-632/435 regarding which the Appellant/Claimant has been claiming allotment from DDA. Further, the name of the Appellant/Claimant appears at Sl. No. 913 in the Voter List of the year 2015 (Annexure-N) and in the Voter List the number of her Voter ID Card is mentioned to be SMM 2665826 and the address is mentioned to be Jhuggi No. B-632/435 regarding which she has been claiming allotment from DDA. It is also pointed out that the Voter ID Card No. SMM 288763 (Annexure-J) of her husband Saddam has been issued on 31.10.2017 and RC of Motor Cycle (Annexure-L) has been issued on 18.02.2020. The Aadhar Card (Annexure-K) of her husband Saddam is bearing number 3556 2001 2203. It is pointed out that in the Voter ID Card (Annexure-J), the Aadhar Card (Annexure-K) & RC of Motor Cycle (Annexure-L) the address of the Appellant/Claimant is mentioned to be bearing Jhuggi No. B-632/435 regarding which the Appellant/Claimant has been claiming allotment from DDA. This accordingly corroborates the statement of the Appellant/Claimant that she along with her family has been living on the first floor of Jhuggi No. B-632/435 much prior to the cutoff date of 01.01.2015. Furthermore, as per our discussion above, the statement of the Appellant/Claimant has been fully supported by survey records prepared by the survey team of DDA to show that the Jhuggi No. B-632/435, Kathputli Colony was a double storey structure and the Appellant/Claimant along with her family was living on the first floor of the said Jhuggi and using the same for residential purposes. The material placed on file shows that the EDC has wrongly rejected the claim of the Appellant/Claimant on the sole ground that she was not having separate Ration Card inspite of the fact that she is claiming allotment from DDA against the upper floor. The Appellant/Claimant has stated that she had applied for issuing of separate Ration Card but the concerned authority has refused to issue a separate Ration Card in favour of the Appellant/Claimant pertaining to the first floor of Jhuggi No. B-632/435. This shows that the Appellant/Claimant could not get a separate Ration Card issued in his favour pertaining to the first floor of Jhuggi No. B-632/435 because of policy of the concerned Food & Civil Supply Department and not due to any fault or inaction or lapse on part of the Appellant/Claimant. Hence this explains as to why the Appellant/Claimant could not get the separate Ration Card issued in his favour in spite of the fact that she was living separately & independently on the first floor of Jhuggi No. B-632/435 and as already pointed out in the survey records of DDA it is


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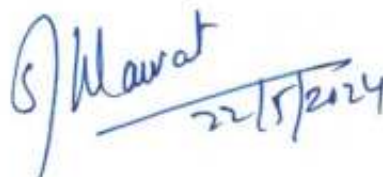

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mentioned that the survey team has found that the Appellant/ Claimant was living separately & independently on the first floor of Jhuggi No. B-632/435 Survey No. N-4068 and this fact is duly reflected in the EDC Note (Annexure-O) . Furthermore, the fact cannot be lost sight that in view of Mohammad Hakim's case (supra) Ration Card is not a mandatory document for the dwellers claiming allotment from DDA against the first floor but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the DDA policy has to be considered. It is pointed out that the documents placed on file further corroborates the claim of the Appellant/ Claimant that she as well his family members were having all the requisite documents and she possess one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and accordingly the Appellant/ Claimant is entitled to claim allotment from DDA as per the policy guidelines issued by DDA. But the Eligibility Determination Committee without any basis had come to the wrong conclusion that the Appellant/ Claimant is not eligible to get alternative allotment on the sole ground that she was not having separate Ration Card and accordingly, the same is not sustainable in the eyes of law. It is pointed out that the documents placed on file further corroborates the claim of the Appellant/ Claimant that she as well her family members were having all the requisite documents as per the policy guidelines issued by DDA, therefore, the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

63. As already pointed out the statement of the Appellant/Claimant has been corroborated by the survey records prepared by the survey team of DDA as well as reflected in the EDC Note (Annexure-O) and accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-632/435 was a pucca & an old construction and it was very much in existence much prior to the cutoff date of 01.01.2015 and both the floors were different dwelling units and further her parents, Asgar Khan & Meena, along with the families of their sons, Manish & Anish, were living in the first room on the ground floor & two rooms on the first floor and it was a separate dwelling unit bearing Jhuggi No. B-632/435 DDA No. 580 and regarding that DDA has made allotment in favour of her father Asgar Khan and after his death the mutation has been sanctioned in favour of his son Manish and they have shifted to Transit Camp, Anand Parbat. And further her brother Sunit along with his wife Sanno and all the seven children was living in the second room on the ground floor of the Jhuggi No. B-632/435 and regarding that DDA has made allotment in favour of Sunit and he has also shifted to Transit Camp, Anand Parbat. Whereas the Appellant/ Claimant along with her family was living separately & independently


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in the second room on the first floor of the said Jhuggi on the cutoff date of 01.01.2015 and it was bearing Jhuggi No. B-632/435 Survey No. N-4068 and the Appellant/ Claimant was using the said Jhuggi for residential purposes. It is pertinent to point out that DDA has not disputed about the existence of Jhuggi of the Appellant/Claimant on the first floor bearing Jhuggi No. B-632/435 Survey No. N-4068 but her claim was rejected wrongly by the EDC on the sole ground that she was not having separate Ration Card inspite of the fact that in view of Mohammad Hakim's case (supra) Ration Card is not a mandatory document for the dwellers claiming allotment from DDA against the first floor but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the DDA policy has to be considered. The material placed on file shows that the Appellant/ Claimant along with her family was living separately & independently on the first floor of Jhuggi No. B-632/435 Survey No. N-4068 and further as per our discussion above, the documents placed on file shows that the Appellant/Claimant was having a valid Voter ID Card & Aadhar Card on the cutoff date of 01.01.2015 and her name also appears in the voter list of the year's 2015 and furthermore, the documents placed on file also corroborates that the Appellant/Claimant along with her family was living on the first floor of Jhuggi No. B-632/435 Survey No. N-4068 regarding which she is claiming allotment from DDA. Furthermore, DDA has made provisional allotment by issuance of the DS No. 03130 dated 02.03.2017 (Annexure-A) & Verification Slip dated 12.01.2017 (Annexure-B) in her favour and thereafter, execution of the Tripartite Agreement dated 03.03.2017 (Annexure-C) and further, allotment of Flat No. 26, Block-A-8, Pocket-04, First Floor, Sector-7G, Narela by DDA to the Appellant/Claimant vide Allotment Letter (Annexure-D) and issuance of the Possession Slip No. 101 dated 04.11.2017 (Annexure-E) along with Inventory in her favour and right of allotment was created in favour of the Appellant/ Claimant by issuing DS etc. In the light of our detailed discussion, we have no hesitation in holding that the Appellant/ Claimant was having all the requisite documents and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

64. 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 policy guidelines issued by DDA. But the Eligibility Determination Committee has wrongly and illegally rejected her claim. Hence the present appeal No. 229 of 2023 stands allowed, hereby, setting aside the impugned order communicated vide order bearing No. F/KPC (N-4068)13/Survey/LM/WZ/4179 dated 10.11.2021 issued by the Nodal Officer, Kathputli Colony. DDA is hereby directed to make


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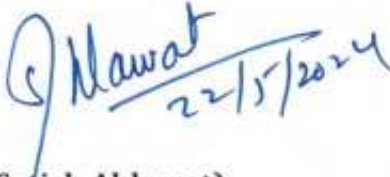

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alternative allotment in favour of Appellant/ Claimant, Appellant/ Claimant Manisha D/o Asgar Khan W/o Saddam, in respect of the first floor of Jhuggi No. B-632/435 bearing DDA No. N-4068, Kathputli Colony.

65. 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 22994/2018 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 JJ DWELLERS OF KATHPUTLI COLONY

Appeal No: 164 of 2023

Date of Institution: 01.12.2021

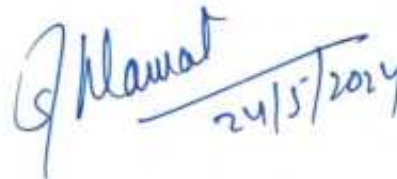
Date of Order: 24.05.2024

Present: Appellant/ Claimant Sanjay (since deceased) S/o Bhav Shah Gayakwad through his
legal heir, Padma (wife)
Sh. Radhey Shyam, Deputy Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 10.11.2021 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant Sanjay (since deceased) has made a Representation to the Competent Authority, thereby, alleging that he is living in Jhuggi bearing No. A-373 in Kathputli Colony. A Notice by DDA was pasted in the Kathputli Colony to inform the Jhuggi dwellers about the survey to be conducted in the said basti. The Appellant/ Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. He was found provisionally eligible and accordingly Relocation-cum-Allotment Slip, which is commonly called as "DS" No. 00502 dated 20.12.2016 was issued in favour of Appellant/Claimant subject to final approval by Eligibility Determination Committee (hereinafter called EDC) on merits after scrutiny of the required documents and her fulfilling the requisite conditions as per the policy guidelines issued by DDA. Further, Verification Slip dated 20.12.2016 was also issued in his favour and a Tripartite Agreement dated 20.12.2016 was also executed. The Appellant/ Claimant had also submitted an Affidavit dated 20.12.2016 thereby giving an undertaking that if any facts/documents is/are found to be false/forged then his claim shall be liable to be cancelled. The Appellant/Claimant was shifted to the Transit Camp, Anand Parbat after DDA has made provisional allotment in his favour. Subsequently, the Eligibility Determination Committee has considered the claim of the Appellant/ Claimant on merits and on verification of documents


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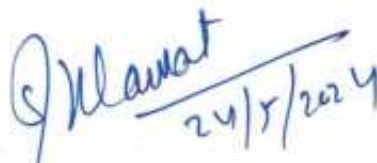

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submitted by the Appellant/ Claimant the Eligibility Determination Committee has come to the conclusion that the present Appellant/ Claimant does not fulfill the eligibility criteria as per the policy guidelines issued by DDA and accordingly rejected his claim and the Nodal Officer, Kathputli Colony, duly communicated its order bearing No. F/KPC (2599)13/Survey/LM/WZ/4003 dated 10.11.2021 to the legal heir of the present Appellant/ Claimant, who has since died on 31.01.2019. Aggrieved by the same, the present Appeal No. 164 of 2023 has been filed by his legal heir, Padma (wife).

3. It is pointed out that in the month of October 2023 a bunch of about 250 appeals pertaining to Kathputli Colony has been sent to the Appellate Authority for disposal. After receiving of appeals files the same were ordered to be checked & registered and this Appellate Authority has directed to issue notice to procure the presence of the present Appellant/Claimant with the direction that it be got served by deputing official/special messenger and the copy of the same be also pasted on the Notice Board in the Transit Camp, Anand Parbat/Narela as well as on the main gate of the accommodation/flat situated in Transit Camp/Narela in which the Appellant/Claimant is at present living temporarily and in addition to that an attempt be also made by the Call Centre of DDA to intimate the Appellant/Claimant by calling him on his mobile number. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director.
4. In response to the notice, Padma (wife), legal heir of the present Appellant/ Claimant, Sanjay (since deceased) S/o Bhav Shah Gayakwad has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam, Dy. Director.
5. The statement of Padma (wife) has been recorded before us on 29.04.2024 and further she has also examined Lila Bai & Suresh on 04.01.2024 and has also tendered documents, Annexure- A to Annexure-V, in support of the claim of the Appellant/ Claimant, Sanjay (since deceased). DDA has furnished the survey records and also the Video Clippings prepared along with the survey.
6. Arguments advanced by Padma (wife), legal heir of the present Appellant/ Claimant, Sanjay (since deceased) as well as Sh. Radhey Shyam, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.


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7. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-373 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 Sanjay (since deceased), which was communicated to his legal heir Padma (wife) by the Nodal Officer vide Rejection Order dated 10.11.2021 whereby the reasons for rejection is mentioned to be "Use of Jhuggi as Commercial" and aggrieved by the same the present Appeal No. 164 of 2023 has been filed by his legal heir, Padma (wife).
8. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant Sanjay (since deceased). We shall appraise the material placed on file to determine as to whether Appellant/Claimant was using the Jhuggi No. A-373 on the cutoff date of 01.01.2015 exclusively for commercial purposes or it was used exclusively for residential purposes and/or it was put to mixed use for residential-cum-commercial purposes and accordingly whether the present Appellant/Claimant Sanjay (since deceased) is entitled for alternate allotment as per the policy guidelines issued by DDA and consequent sanction of mutation in favour of his wife Padma (wife) in the capacity of his legal heir.
9. Here it is pertinent to mention that the Appellant/ Claimant has sought alternate allotment under insitu Slum Redevelopment policy against the single storey Jhuggi No. A-373 bearing DDA No. 2599, Kathputli Colony, as per the policy guidelines issued by DDA. The survey was conducted in respect of the said Jhuggi and the documents, i.e., Voter ID Card & Aadhar Card etc. relating to the Appellant/ Claimant & his family members, which were furnished by the Appellant/ Claimant, were also got verified and all the materials including video clips were placed before the Eligibility Determination Committee but it has rejected the claim of the present Appellant/ Claimant and the same was communicated to the Appellant/Claimant by the Nodal Officer, KPC, vide Rejection Order dated 10.11.2021 whereby the reasons for rejection is mentioned to be "Use of Jhuggi as Commercial". This shows that the claim of the Appellant/Claimant was rejected on the sole ground that the Jhuggi No. A-373 was used for commercial purposes, thereby, showing that DDA has not disputed about the existence of


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Jhuggi of the single storey Jhuggi No. A-373 bearing DDA No. 2599 of the Appellant/Claimant on the cutoff date of 01.01.2015 and further he was also having all other requisite documents and making compliance of all other mandatory conditions except that this was allegedly used for commercial purposes. Therefore, in the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Jhuggi No. A-373 was used exclusively for commercial purposes or it was used exclusively for residential purposes and/or it was put to mixed use for residential-cum-commercial purposes and as to whether the Appellant/ Claimant was having all the requisite documents, on the cutoff date of 01.01.2015.


10. Therefore, it has to be first seen as to what is the legal position with regard to running of shop and using of the Jhuggi as commercial 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 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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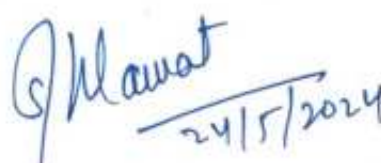
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes 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/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."

11. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or


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have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMENTS OF DOCUMENTS

12. As per Clause 1 (6) Part-B 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 in Clause 2. 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 one of the documents out of list of 12 documents.
13. Thus the bare perusal of the Policy shows that for claiming allotment against the **ground floor/single storey Jhuggi** the JJ dwellers must be a citizen of India and 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 and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015. Further, the Jhuggi should not have been used exclusively for commercial purposes but it should have been used for residential purposes or put to mixed used as residential-cum-commercial.
14. As already pointed out above, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit as per the policy guidelines issued by DDA. Therefore, now we shall appraise the material placed on file to determine whether the Appellant/Claimant was using the Jhuggi No. A-373 exclusively for commercial purposes or it was used exclusively for residential purposes and/or it was put to mixed use for residential-cum-commercial purposes and accordingly whether the present Appellant/Claimant is entitled for alternate allotment as per the policy guidelines issued by DDA.


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15. The Appellant/Claimant Sanjay has died on 31.01.2019 and his Death Certificate is Annexure-5. His wife Padma has appeared before us to make statement on 29.04.2024 and she has also examined her mother-in-law, Lila Bai, and brother-in-law, Suresh. The gist of the statements of Padma {Wife of the Appellant/Claimant Sanjay (since deceased)}, Lila Bai {mother of the Appellant/Claimant Sanjay (since deceased)} & Suresh {brother of the Appellant/Claimant Sanjay (since deceased)} is summarized herein below.

16. Padma, Lila Bai & Suresh have stated that Bhav Rao was married with Lila Bai and they are having two sons, Suresh & Sanjay. Bhav Rao had died about thirteen years ago. Suresh is married with Ranjana and having three children. Sanjay (Appellant/Claimant –since deceased) is married with Padma and having three children, Gaurav, Aditya & Kasish.

17. Padma, Lila Bai & Suresh have stated that their family was having three single storey Jhuggis in Kathputli and they were situated at some distance away from each other. The first Jhuggi was bearing Jhuggi No. A-373/H-329 bearing DDA No. 2595; the second Jhuggi was bearing Jhuggi No. A-373/H-330 bearing DDA No 2596 and the third Jhuggi was bearing Jhuggi No. A-373 bearing DDA No. 2599.

First Jhuggi bearing No. A-373/H-329, DDA No. 2595

18. Padma, Lila Bai & Suresh have stated that the first Jhuggi was bearing No. A-373/H-329 bearing DDA No. 2595 and it was a single storey structure in which Lila Bai Widow of Bhav Ram was living and regarding that DDA has made allotment in her favour and she has shifted to the Transit Camp, Anand Parbat. These facts are not disputed by DDA.

Second Jhuggi bearing No. A-373/H-330 bearing DDA No. 2596

19. Padma, Lila Bai & Suresh have stated that Suresh S/o Bhav Rao along with his family was living in the second Jhuggi No. A-373/H-330 and DDA No. 2596 and it was a single storey structure and regarding that DDA has made allotment in favour of Suresh and he along with his family has shifted to the Transit Camp, Anand Parbat. These facts are not disputed by DDA.

Third Jhuggi bearing No. A-373 bearing DDA No. 2599

20. Padma, Lila Bai & Suresh have stated that the third Jhuggi is bearing No. A-373 bearing DDA No. 2599 and it was a single storey Jhuggi in which the Appellant/Claimant (until his death on 31.01.2019) along with his wife Padma and all the three children, Gaurav, Aditya & Kashish


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was living. The Appellant/Claimant Sanjay (since deceased) has sought allotment from DDA against Jhuggi No. A-373 bearing DDA No. 2599 and regarding that DDA has made provisional allotment in his favour subject to final approval by Eligibility Determination Committee on merit and had issued DS No. 00502 dated 20.12.2016 (Annexure-A) & Verification Slip dated 20.12.2016 (Annexure-B) in his favour and further, Tripartite Agreement dated 20.12.2016 (Annexure-C) was also executed. Further, the Appellant/Claimant Sanjay (since deceased) had also submitted an Affidavit dated 20.12.2016 (Annexure-D) wherein he has given an undertaking that if any fact/document is/are found to be false/forged then his provisional allotment is liable to be cancelled. Accordingly, the Appellant/Claimant Sanjay (since deceased) along with his wife Padma and all the children had shifted to the Transit Camp, Anand Parbat after DDA has made provisional allotment in his favour.

21. Padma, Lila Bai & Suresh have stated that subsequently the claim of Appellant/Claimant Sanjay (since deceased) was placed before the Eligibility Determination Committee for final approval but his claim was rejected on the ground that his Jhuggi was found to be used exclusively for commercial purposes in spite of the fact that the said Jhuggi was never used for commercial purposes as shop but it was used for residential purposes and further DDA had already issued DS No. 00502 dated 20.12.2016 (Annexure-A) & Verification Slip dated 20.12.2016 (Annexure-B) and a Tripartite Agreement dated 20.12.2016 (Annexure-C) was executed. The Rejection Order was communicated to Padma, Widow of Appellant/Claimant Sanjay (since deceased), being his LR and accordingly aggrieved by the Rejection Order, the present Appeal No. 164 of 2023 has been filed by Padma in the capacity of legal heir of the Appellant/Claimant Sanjay (since deceased). Furthermore, Padma has tendered documents, Annexure-A to Annexure-V, in support of the claim of Appellant/Claimant Sanjay (since deceased) and prayed that DDA be directed to make allotment in favour of Appellant/Claimant Sanjay (since deceased) and mutation be sanctioned in favour of his widow Padma being his legal heir.

REJECTION OF REPRESENTATION BY EDC VIDE ORDER DATED 11.03.2020

22. Now we shall appraise the material placed on file to show as to how the EDC had proceeded to deal with the claim and more particularly as to whether it was swayed by irrelevant matter or it has determined the claim of the Appellant/ Claimant fairly & independently.


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23. It is not disputed that the claim of the Appellant/ Claimant was placed before the Eligibility Determination Committee (hereinafter called EDC). It is pertinent to point out that the claim of the Appellant/ Claimant was rejected by EDC on 14.01.2020 and the Nodal Officer, Kathputli Colony, duly communicated its order bearing No. F/KPC (2599)13/Survey/LM/WZ/4003 dated 10.11.2021 to the present Appellant/Claimant and the Note of the EDC dated 14.01.2020 (Annexure-V) is reproduced for better understanding of the facts and the grounds on which the claim of the present Appellant/ Claimant was rejected, as under: -

EDC Note dated 14.01.2020 (Annexure-V)

"Subject: - Determination of the Eligibility of Present Claimant Survey number

Sl. No.	Particulars		Page number
1.	Name of claimant with Father Name /Husband Name	Sanjay Gayakwad S/o Bhavshah Gayakwad	
2.	Survey Number	2599	
3.	Jhuggi number	A-373	
4.	Status of voter card number with date of issue	DL/07/066/348778- 28/3/2008 SMM2459632 (List)	21 30
5.	Detail of Ration Card number in case of upper floors of JJ dwellers		
6.	Detail of Second document out of 12 documents mentioned in the policy issued before 01.01.2015	4800 5438 9450	22

Hence file may be forwarded to Member Secy (EDC) for taking further necessary action/view, as per the provision of laid in the Policy guidelines.

Submitted Please

Dealing Assistant/KPC

Asstt. Director (KPC)

Nodal Officer (KPC)

Member Secy (EDC)


Recommendation of EDC regarding Eligibility/ ineligible with ground:-

Ineligible – use of Jhuqqi as commercial as per survey report/ Performed year 2010-2011

Sd-
Dy. Director (LM) West
Member


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Sd-
Dy. Director (Housing) Janta
Member



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Sd-
Asstt. Director (Housing) Janta
Member"


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24. The bare perusal of the Note of the EDC dated 14.01.2020 (Annexure-V) shows that DDA has not objected about the existence of the Jhuggi of the Appellant/Claimant as reflected in the Eligibility Determination Committee Note dated 14.01.2020 (Annexure-V) but his claim was rejected on the sole ground that his Jhuggi No. 373 bearing DDA No. 2599 was found to be used for commercial purposes. Thus the fact remains that the Appellant/ Claimant was having a single storey Jhuggi bearing Jhuggi No. 373 bearing DDA No. 2599 regarding which the Appellant/Claimant has been claiming allotment from DDA. Padma, Lila Bai & Suresh have stated that their family was having three single storey Jhuggis in Kathputli. All these Jhuggis were situated at some distance away from each other and were bearing different Jhuggis numbers & survey numbers and were three independent dwelling units. They have also stated that the first Jhuggi was bearing Jhuggi No. A-373/H-329 bearing DDA No. 2595 and regarding that DDA has made allotment in favour of Lila Bai Widow of Bhav Ram whereas the second Jhuggi was bearing Jhuggi No. A-373/H-330 bearing DDA No 2596 and regarding that DDA has made allotment in favour of Suresh S/o Bhav Ram and further the third Jhuggi was bearing Jhuggi No. A-373 bearing DDA No. 2599 and regarding that the Appellant/Claimant Sanjay (since deceased) has sought allotment from DDA.
25. The Appellant/Claimant Sanjay (since deceased) had submitted the Re-Survey Form dated 28.08.2014 (Annexure-F) in which the photograph of his family is attached in which the Appellant/Claimant Sanjay along with his wife Padma and all the three children are seen and the survey team of DDA had conducted survey & reported that the Jhuggi no. A-373 bearing DDA No. 2599 regarding which the Appellant/Claimant Sanjay has sought allotment from DDA was found in the locked list. Thus the fact remains that the Appellant/ Claimant was having a single storey Jhuggi bearing Jhuggi No. 373 bearing DDA No. 2599 regarding which the Appellant/Claimant has been claiming allotment from DDA.
26. It is also pointed out that the Appellant/Claimant Sanjay (since deceased) had made a representation (Annexure-T) for getting his Jhuggi surveyed and a photograph taken by the survey team is also placed on file thereby showing that the Appellant/Claimant Sanjay (since deceased) along with his wife Padma and all the three children has been seen standing outside his Jhuggi and on the front wall, "DDA No. 2599" is seen to have been written and further, at the time of taken of this photograph also, there is no sign that the Jhuggi against which the Appellant/Claimant has sought allotment from DDA was used for commercial


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purposes but it is seen to be a residential structure.

27. DDA has furnished the survey record along with three video clips. The video clips were played before Padma, Lila Bai & Suresh when their statements were recorded before us wherein they have stated that the first video clip pertains to the Jhuggi No. A-373/H-330 of Lila Bai in which Lila Bai, Widow of Bhav Ram is seen standing outside the Jhuggi No. A-373/H-330 and getting the survey conducted and further, "DDA No. 2595" is clearly seen to have been written on the front wall of the said Jhuggi. The second video clip pertains to the Jhuggi No. A-373/H-329, bearing Survey No. 2596 of Suresh in which Ranjana W/o Suresh is seen and getting the survey conducted on behalf of her husband Suresh, while standing outside in the said Jhuggi and further, "DDA No. 2596" is clearly seen to have been written on the front wall of the said Jhuggi. The third video clip pertains to the Jhuggi No. A-373 bearing Survey No. 2599 in which the Appellant/Claimant Sanjay (since deceased) as well as his wife Padma are seen and getting the survey conducted while standing outside of the said Jhuggi and further, "DDA No. 2595" is clearly seen to have been written on the front wall of the said Jhuggi.
28. It is pertinent to point out that the survey team has not prepared the video clip of inside of the three above-mentioned Jhuggis but the videography was conducted while getting all the applicants standing outside their respective Jhuggis and accordingly for not preparing the video of inside of the Jhuggis none of the applicants can be blamed. Furthermore, the video clip pertaining to the Jhuggi No. A-373 of the Appellant/Claimant Sanjay (since deceased) shows that it is a single storey structure and it was used for residential purposes as there is no sign of it having been put to commercial use. Therefore, the survey records and the video clips tendered by the DDA itself shows that the Jhuggi No. A-373 is not proved to have been used for commercial purposes but the said Jhuggi was used exclusively for residential purposes.
29. As pointed out above, the Appellant/Claimant Sanjay (since deceased) had made a representation (Annexure-T) for getting his Jhuggi surveyed/photographed and it is not disputed by DDA that its survey team had surveyed the Jhuggi no. A-373 bearing DDA No. 2599 and in the photograph taken by the survey team the Appellant/Claimant Sanjay (since deceased) along with his wife Padma and all the three children are seen standing outside his Jhuggi and on the front wall, "DDA No. 2599" is clearly seen to have been written and neither there is report of survey team about it having found the Jhuggi used for commercial purposes


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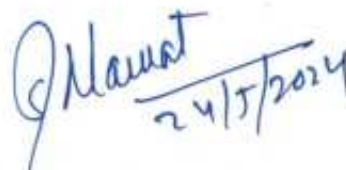

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nor in the photograph taken by the survey team there is any sign to suggest that the Jhuggi was used for commercial purposes but on the other hand the Jhuggi is seen to have been used for residential purposes. This corroborates that the Appellant/Claimant had been using the said Jhuggi for residential purposes.

30. Furthermore, the Re-Survey Form dated 28.08.2014 (Annexure-F) shows that the survey team of DDA had surveyed the Jhuggi no. A-373 bearing DDA No. 2599 of the Appellant/Claimant Sanjay (since deceased) and the photograph of the family of the Appellant/Claimant Sanjay (since deceased) is pasted on the Re-Survey Form dated 28.08.2014 (Annexure-F) in which the Appellant/Claimant Sanjay along with his wife Padma and all the three children are seen and this also corroborates that the Appellant/Claimant Sanjay along with his family was living in Jhuggi no. A-373 bearing DDA No. 2599 and it was used exclusively for residential purposes.
31. Moreover, in the video clip prepared by the survey team of DDA the Jhuggi No. A-373 bearing Survey No. 2599 the Appellant/Claimant Sanjay (since deceased) as well as his wife Padma are seen and getting the survey conducted while standing outside of the said Jhuggi and further, "DDA No. 2595" is clearly seen to have been written on the front wall of the said Jhuggi and this video clip also corroborates that that the Appellant/Claimant Sanjay (since deceased) was using the Jhuggi No. A-373 bearing Survey No. 2599 on the cutoff date of 01.01.2015 exclusively for residential purposes.
32. The statements of Padma, Lila Bai & Suresh are fully corroborated by the survey records tendered by the DDA as well as the video clips prepared by the survey team and it accordingly shows that the family of the Appellant/Claimant Sanjay (since deceased) was having three separate Jhuggis which were situated at some distance away from each other. All the three Jhuggis were having different Jhuggi numbers as well as different DDA numbers and were three separate dwelling units being occupied by three different families, namely, firstly by Lila Bai, widow of Bhav Rao; secondly by Suresh S/o Bhav Rao and thirdly by Sanjay (since deceased) S/o Bhav Rao. Furthermore, the material placed on file shows that Lila Bai Widow of Bhav Rao was living in the first Jhuggi No. A-373/H-329 bearing DDA No. 2595 and regarding that DDA has already made allotment in favour of Lila Bai and further Suresh S/o Bhav Rao along with his family was living in the second Jhuggi No. A-373/H-330 bearing DDA No. 2596 and regarding that DDA has made allotment in favour of Suresh and further the


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Appellant/Claimant Sanjay (since deceased) along with his wife Padma & the three children was living in the third Jhuggi No. A-373 bearing DDA No. 2599 and using the said Jhuggi for residential purposes. This shows that all the three Jhuggis were different dwelling units and this fact is not disputed by DDA and further the Appellant/Claimant Sanjay (since deceased) along with his wife Padma & the three children was living in the third Jhuggi No. A-373 bearing DDA No. 2599 on the cutoff date of 01.01.2015 and using the said Jhuggi for residential purposes.

33. 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."

34. There is nothing to disbelieve the statement of the Appellant/Claimant as it has been corroborated by the survey records/video clip/photograph prepared by the survey team of DDA as well as reflected in the EDC Note (Annexure-V) and accordingly, we have no hesitation in holding that the single storey Jhuggi No. A-373 bearing DDA No. 2599 was a pucca & an old construction and it was very much in existence much prior to the cutoff date of 01.01.2015 and it was a separate dwelling unit and the Appellant/ Claimant along with his family was living separately & independently in the said Jhuggi on the cutoff date of 01.01.2015 and the Appellant/ Claimant was using the said Jhuggi for residential purposes. Therefore, we have no hesitation in holding that the material placed on file shows that on the cutoff date of 01.01.2015 the Jhuggi No. A-373 bearing DDA No. 2599 was put to use for residential purposes exclusively and accordingly, the Appellant/Claimant Sanjay (since deceased) fulfill the eligibility criteria to get alternative allotment as per the policy guidelines issued by DDA.

35. Now, we shall appraise the material placed on file to determine as to whether the Appellant/Claimant Sanjay (since deceased) 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


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the year of survey and whether he is entitled to claim allotment against the single storey Jhuggi No. A-373 bearing DDA No. 2599 as per the policy guidelines issued by DDA.

36. Padma has tendered documents, Annexure-A to Annexure-V, in support of the claim of the Appellant/Claimant Sanjay (since deceased) and prayed that DDA be directed to make allotment in his favour against Jhuggi No. A-373 bearing DDA No. 2599 and mutation be sanctioned in her favour being his legal heir.
37. Padma has tendered the Voter ID Card bearing No. DL/07/066/348778 (Annexure-G), Aadhar Card (Annexure-H) of her husband Sanjay (Appellant/Claimant), Voter List of the year 2012 (Annexure-O), Voter List of the year 2013 (Annexure-P), Voter List of the year 2013 (Annexure-Q) and Voter List of the year 2015 (Annexure-R) in support of the claim of the Appellant/Claimant Sanjay (since deceased).
38. It is pointed out that the Voter ID Card bearing No. DL/07/066/348778 (Annexure-G) of the Appellant/Claimant Sanjay (since deceased) has been issued on 21.03.2008, much prior to the cut off date of 01.01.2015. Further, his name appears at Sl. No. 1041 in the Voter List of the year 2012 (Annexure-O), at Sl. No. 1041 in the Voter List of the year 2013 (Annexure-P), at Sl. No. 1027 in the Voter List of the year 2014 (Annexure-Q) and at Sl. No. 1059 in the Voter List of the year 2015 (Annexure-R). It is also pointed out that the Aadhar Card No. 4800 5438 9450 (Annexure-H) of the Appellant/Claimant Sanjay (since deceased) has been issued on 04.10.2013, much prior to the cut off date of 01.01.2015. Furthermore, in all the Voter Lists (Annexure-O to Annexure-R), the number of the Voter ID Card of the Appellant/Claimant Sanjay (since deceased) is mentioned to be DL/07/066/348778 and further, it is also pointed out that in all the above-mentioned documents (Annexure-G, Annexure-H & Annexure-O to Annexure-R) the address of the Appellant/Claimant is mentioned to be Jhuggi No. A-373, regarding which the Appellant/Claimant is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant Sanjay (since deceased) was having a Voter ID Card on the cutoff date of 01.01.2015 and his name also appear in the voter list of the year's 2012, 2013, 2014 and 2015 and accordingly, he fulfils the eligibility criteria as per the policy guidelines issued by DDA.
39. Padma has tendered her Voter ID Card No. GXX 1248483 (Annexure-I), Aadhar Card (Annexure-J), PAN Card (Annexure-M), the Voter Lists (Annexure-O to Annexure-R), No Dues


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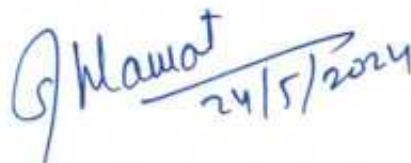

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Certificate (Annexure-E), Ration Card (Annexure-N) and Aadhar Cards (Annexure-K, Annexure-L & Annexure-U) of her children, Aditya, Gaurav & Kasish in support of the claim of the Appellant/Claimant Sanjay (since deceased).

40. It is pointed out that the Voter ID Card No. GXX 1248483 (Annexure-I) of Padma has been issued on 27.03.2008, much prior to the cut off date of 01.01.2015. Furthermore, it is also pointed out that the name of his wife Padma appears at Sl. No. 1043 in the Voter List of the year 2012 (Annexure-O), at Sl. No. 1043 in the Voter List of the year 2013 (Annexure-P), at Sl. No. 1028 in the Voter List of the year 2014 (Annexure-Q) and at Sl. No. 1060 in the Voter List of the year 2015 (Annexure-R). It is pointed out that in all the Voter Lists (Annexure-O to Annexure-R), the number of the Voter ID Card of Padma Widow of Appellant/Claimant Sanjay (since deceased) is mentioned to be GXX 1248483 and further, it is also pointed out that in all the above-mentioned documents, the address of Padma is mentioned to be Jhuggi No. A-373, regarding which the Appellant/Claimant is claiming allotment from DDA.
41. It is pointed out that the Aadhar Card (Annexure-J) of Padma has been issued on the address of Transit Camp where the Appellant/Claimant Sanjay (since deceased) had shifted after DDA had made provisional allotment in his favour. Further the No Dues Certificate (Annexure-E) pertains to the Jhuggi of his mother Lila Bai and accordingly the same is not relevant. The Ration Card bearing No. 66380066 (Annexure-N) has been issued on 17.07.2010 in favour of Lila Bai, who is mother of the Appellant/Claimant Sanjay (since deceased) and in that the name of the Appellant/Claimant has been mentioned. The Aadhar Cards (Annexure-K & Annexure-L) of her sons, Aditya & Gaurav have been issued on the address of Jhuggi No. A-373/H-329 whereas the Aadhar Card (Annexure-U) of her daughter Kashish has been issued on the address of Jhuggi No. A-373.
42. All these documents also corroborate the claim of the Appellant/Claimant Sanjay (since deceased) that he along with his wife Padma and all the three children was living in the Jhuggi No. A-373 since long and more particularly in the year 2008 when the Voter ID Cards (Annexure-G & Annexure-I) were issued in favour of the Appellant/Claimant Sanjay & his wife Padma and also from 2012 to 2015 when his name and that of his wife Padma is reflected in the Voter Lists from 2012 to 2015 (Annexure-O & Annexure-R). It is pointed out that the documents placed on file further corroborates the claim of the Appellant/ Claimant that he as


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well his family members were having all the requisite documents and he possess one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and accordingly the Appellant/ Claimant is entitled to claim allotment from DDA as per the policy guidelines issued by DDA. In the light of our detailed discussion, we have no hesitation in holding that the Appellant/ Claimant was having all the requisite documents and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

43. Padma (wife) of the Appellant/ Claimant has contended that the claim of the Appellant/Claimant Sanjay (since deceased) was ultimately rejected by the Eligibility Determination Committee vide order dated 10.11.2021 in spite of the fact that much earlier to that DDA has made provisional allotment in his favour by issuing DS No. 00502 dated 20.12.2016 (Annexure-A) & Verification Slip dated 20.12.2016 (Annexure-B) in his favour and further, the Tripartite Agreement dated 20.12.2016 (Annexure-C) was also executed but these facts were not duly considered by EDC. Accordingly, she has come before us thereby challenging the order of rejection dated 10.11.2021 in the capacity of his legal heir as the Appellant/Claimant Sanjay had expired on 31.01.2019.
44. It is not disputed that DDA has made provisional allotment in favour of the present Appellant/ Claimant Sanjay (since deceased) and had issued DS No. 00502 dated 20.12.2016 (Annexure-A) & Verification Slip dated 20.12.2016 (Annexure-B) in his favour and further, the Tripartite Agreement dated 20.12.2016 (Annexure-C) was also executed. Now we shall consider as to what is the legal effect of issuance of DS No. 00502 dated 20.12.2016 (Annexure-A) & Verification Slip dated 20.12.2016 (Annexure-B) in his favour and execution of the Tripartite Agreement dated 20.12.2016 (Annexure-C) in his favour and whether any right of allotment was created in favour of the Appellant/ Claimant Sanjay (since deceased) merely by issuing DS etc. by DDA in his favour.
45. It is not disputed before us that Kathputli Colony Project is a pilot project of DDA for in-situ development of Kathputli Colony. In 2010, survey teams were constituted by LM Department, DDA for conducting door-to-door survey of Kathputli Colony JJ Cluster. Survey was initiated in January 2010 and completed in January 2011 and videography was also done of each Jhuggi. The survey list was uploaded on the website of DDA and was also displayed on the Notice


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Board at Transit Camp, Anand Parbat. In compliance of the Orders of the Hon'ble High Court of Delhi, fresh applications were invited for resurvey after giving wide publicity. The resurvey work began with effect from 13.07.2014 and the same was completed by the end month of September 2014. But because of non-submission of complete documents, no fresh name was incorporated in the main survey list in the year 2014. Thereby considering various representations, DDA had conducted special drive from 19.12.2016 to 30.06.2017 and the names of JJ dwellers whose names did not appear in the earlier survey list were added. Subsequently, DDA had adopted DUSIB/GNCTD policy on 10.02.2017 and the cut off date was changed to 01.01.2015 for Kathputli Colony. Since the cut off date was changed and it necessitated conducting fresh survey and the last date of submission was extended several times and it was finally extended up to 25.07.2017. Thereafter, a survey was conducted in the month of July/August 2017. The shifting process of dwellers from Kathputli Colony to Transit Camp, Anand Parbat was started in February 2014 and by the end of July 2014, 527 families were shifted to the Transit Camp. The shifting process was restarted on 19.12.2016 and till 30.06.2017, 826 additional families were shifted to the Transit Camp thereby bringing the total number to 1355. Side by side, the demolition work was also initiated.

46. A public notice dated 25.10.2017 was pasted in the Kathputli Colony and also in the Notice Board of the Project Office of the DDA and dwellers were also informed that on the basis of various surveys and documents submitted by the dwellers/applicants, all the eligible persons having requisite documents as per the policy/guidelines have been included in the survey list and the list stands displayed at Kathputli Colony Project Office and also uploaded on the website of DDA. It was further informed that the dwellers declared provisionally eligible having names in this list may shift to the Transit Camp, Anand Parbat or Narela. The demolition work was restarted from 23.11.2017 and all the Jhuggis were demolished.
47. JJ dwellers, who were declared provisionally eligible, were shifted to the Transit Camp, Anand Parbat/Narela and their eligibility was subject to scrutiny by Eligibility Determination Committee. The 771 ineligible persons were issued Ineligibility Letters with an opportunity to file appeal before the Appellate Authority constituted by DDA.
48. As per the record, the shifting process of dwellers from Kathputli Colony to Transit Camp Anand Parbat was started in February 2014 and by the end of July 2014, 527 families were


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shifted to the Transit Camp at Anand Parbat/Narela and in that drive which was conducted from December 2016 to June 2017, about 855 families of JJ dwellers were shifted.

49. It is not disputed before us that an undertaking was obtained from each dweller, who were declared provisionally eligible, before executing agreement/issue of provisional possession letter while shifting, wherein he/she has undertaken that the information/documents submitted by him/her are true & correct and all the documents submitted by him/her are original & genuine and in future, in case the facts are found to be wrong/false and documents submitted by him/her are found to be forged/fabricated, his/her allotment would be treated as cancelled.
50. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly accordingly to the merit of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey of 2010-2011 and of July 2017 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.
51. Now coming to the fact of the present case it is pertinent to point out that the bare reading of Relocation-cum-Allotment Slip (DS) No. 00502 dated 20.12.2016 (Annexure-A) shows that the issuance of D.S No. 00502 dated 20.12.2016 (Annexure-A) & Verification Slip dated 20.12.2016 (Annexure-B) in his favour and execution of Tripartite Agreement dated 20.12.2016 (Annexure-C) was subject to fulfillment of terms and conditions of guidelines issued by DDA and this was subject to final scrutiny of eligibility of the Appellant/ Claimant by the Eligibility Determination Committee (EDC) as per the policy guidelines issued by DDA. Furthermore, the Appellant/Claimant had submitted an Affidavit dated 20.12.2016 (Annexure-D) thereby giving an undertaking that if any fact/document is/are found to be false/forged, then his provisional allotment would be cancelled. Thus there is no doubt that DDA has made provisional allotment by issuance of Eviction-cum-Demotion Slip No. D.S No. 00502 dated 20.12.2016 (Annexure-A) & Verification Slip dated 20.12.2016 (Annexure-B) in


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his favour and execution of Tripartite Agreement dated 20.12.2016 (Annexure-C) and this was subject to final scrutiny of eligibility of the Appellant/ Claimant by the Eligibility Determination Committee as per the policy guidelines issued by DDA and no right of allotment was created in favour of the Appellant/ Claimant merely by issuing DS etc. and his case was required to be considered by taking holistic approach by the EDC. But as per our discussion above EDC has wrongly & erroneously come to the conclusion that the Jhuggi No. A-373 was found to be exclusively used for commercial purposes inspite of the fact in the video clip prepared by the survey team of DDA the Jhuggi is clearly seen to have been used for residential purposes. In the photograph taken by the survey team, which has been pasted on the representation (Annexure-T) made by the Appellant/Claimant Sanjay (since deceased) for getting his Jhuggi surveyed/photographed the Appellant/Claimant Sanjay (since deceased) along with his wife Padma & all the three children are seen standing outside his Jhuggi and on the front wall, "DDA No. 2599" is clearly seen to have been written and furthermore, the Re-Survey Form dated 28.08.2014 (Annexure-F) also shows that the survey team of DDA had surveyed the Jhuggi no. A-373 bearing DDA No. 2599 of the Appellant/Claimant Sanjay (since deceased) and the photograph taken by the survey team is also pasted on the Re-Survey Form dated 28.08.2014 (Annexure-F) and it also shows that in that photograph the Appellant/Claimant Sanjay along with his wife Padma & all the three children are seen and this also corroborates that the Appellant/Claimant Sanjay along with his family was living in Jhuggi no. A-373 bearing DDA No. 2599 on the cutoff date of 01.01.2015 and it was used exclusively for residential purposes. The documents placed on file accordingly corroborates the claim of the Appellant/Claimant Sanjay (since deceased) that he was using his Jhuggi No. A-373 bearing DDA No. 2599 on the cutoff date of 01.01.2015 for residential purposes exclusively. Therefore, the rejection order is not sustainable in the eyes of law.

52. The material placed on file shows that on the cutoff date of 01.01.2015 the Appellant/Claimant Sanjay (since deceased), was having valid Voter ID Card bearing No. DL/07/066/348778 dated 21.03.2008 (Annexure-G) & Aadhar Card No. 4800 5438 9450 dated 04.10.2013 (Annexure-H) issued on the address of Jhuggi No. A-373, regarding which the Appellant/ Claimant is claiming allotment from DDA and further his Voter ID Card (Annexure-G) & Aadhar Card (Annexure-GH) have been issued much prior to the cutoff date of 01.01.2015. Further, in addition to that his Voter ID Card (Annexure-G) has been duly


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reflected in voter lists (Annexure-O to Annexure-R) and the name of the Appellant/ Claimant, Sanjay (since deceased), appears at Sl. No. 1041 in the Voter List of the year 2012 (Annexure-O), at Sl. No. 1041 in the Voter List of the year 2013 (Annexure-P), at Sl. No. 1027 in the Voter List of the year 2014 (Annexure-Q) and at Sl. No. 1059 in the Voter List of the year 2015 (Annexure-R). As per our discussion above, the Appellant/Claimant was having a valid Voter ID Card on the cut off date of 01.01.2015 and further his name also appears in the Voter Lists of the year 2012, 2013, 2014 and 2015 and accordingly, he fulfils the eligibility criteria as per the policy guidelines issued by DDA. It is pertinent to point out that in all these Voter Lists (Annexure-O to Annexure-R), the address of the Appellant/Claimant is mentioned to be Jhuggi No. A-373 regarding which the Appellant/Claimant has been claiming allotment from DDA. The name of the Appellant/Claimant also appears in the joint Ration Card (Annexure-N) of his mother. It is also pointed out that all the above-mentioned documents have been issued much prior to the cutoff date of 01.01.2015 on the address of Jhuggi No. A-373 regarding which the Appellant/Claimant has been claiming allotment from DDA.

53. In addition to that the Voter ID Card No. GXX 1248483 (Annexure-I) of his wife Padma has been issued on 27.03.2008, much prior to the cut off date of 01.01.2015. Furthermore, it is also pointed out that the name of his wife Padma appears at Sl. No. 1043 in the Voter List of the year 2012 (Annexure-O), at Sl. No. 1043 in the Voter List of the year 2013 (Annexure-P), at Sl. No. 1028 in the Voter List of the year 2014 (Annexure-Q) and at Sl. No. 1060 in the Voter List of the year 2015 (Annexure-R). It is pointed out that in all the Voter Lists (Annexure-O to Annexure-R), the number of the Voter ID Card of Padma Widow of Appellant/Claimant Sanjay (since deceased) is mentioned to be GXX 1248483 and the address of Padma is mentioned to be Jhuggi No. A-373, regarding which the Appellant/Claimant is claiming allotment from DDA. The Aadhar Cards (Annexure-K & Annexure-L) of his sons, Aditya & Gaurav have been issued on the address of Jhuggi No. A-373/H-329 whereas the Aadhar Card (Annexure-U) of his daughter Kashish has been issued on the address of Jhuggi No. A-373. The material placed on file also shows that the Appellant/Claimant Sanjay (since deceased) was living separately & independently on the cutoff date of 01.01.2015 in the single storey Jhuggi No. A-373 bearing DDA No. 2599 and it was a pucca & an old construction and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant Sanjay (since deceased) was using the said Jhuggi exclusively for residential purposes and accordingly, the Appellant/Claimant


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Sanjay (since deceased) fulfill the eligibility criteria to get alternative allotment as per the policy guidelines issued by DDA.

54. In the light of our detailed discussion, we have no hesitation in holding that the Appellant/Claimant Sanjay (since deceased) was using the Jhuggi No. A-373 bearing DDA No. 2599 exclusively for residential purposes and further the Appellant/ Claimant Sanjay (since deceased) was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further his name also appears in the voter list of the year's 2012, 2013, 2014 and 2015 and accordingly the Appellant/Claimant Sanjay (since deceased) fulfills the eligibility criteria as per the policy guidelines issued by DDA.
55. In view of our findings above, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/Claimant Sanjay (since deceased) fulfills the eligibility criteria as per the policy guidelines issued by DDA. But the Eligibility Determination Committee has wrongly and illegally rejected his claim. Hence the present appeal No. 164 of 2023 stands allowed, hereby, setting aside the impugned order communicated vide order bearing No. F/KPC(2599)13/Survey/LM/WZ/4003 dated 10.11.2021 issued by the Nodal Officer, Kathputli Colony. DDA is hereby directed to make allotment in favour of Appellant/Claimant Sanjay (since deceased) S/o Bhav Shah Gayakwad, in respect of the Jhuggi No. A-373 bearing DDA No. 2599, Kathputli Colony and to sanction mutation in favour of his wife Padma being his legal heir.
56. 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) 24/5/2024

Jt. Secretary (Retd.) GOI

MEMBER


(Satish Ahlawat) 24/5/2024

Addl. District & Sessions Judge (Retd.)

CHAIRMAN


(Rachna Tiwary) 24/5/2024

EXPERT MEMBER

**BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/
REDRESS THE GRIEVANCES RELATED TO DETERMINATION/
RELOCATION OF JJ DWELLERS OF KATHPUTLI COLONY**

Appeal No: 265 of 2023

Date of Institution: 27.10.2023

Date of Order: 31.05.2024

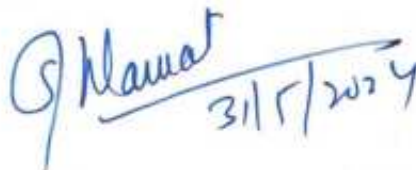
Present: Appellant/ Claimant Arun S/o Ram Prasad

Sh. Radhey Shyam Meena, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 10.11.2021 passed by the Eligibility Determination Committee.
2. In brief, the present Appellant/ Claimant has made a Representation to the Competent Authority, thereby, alleging that he is living in Jhuggi bearing No. A-560/H-247 in Kathputli Colony. A Notice by DDA was pasted in the Kathputli Colony to inform the Jhuggi dwellers about the survey to be conducted in the said basti. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. He was found provisionally eligible and accordingly Relocation-cum-Allotment Slip, which is commonly called as "DS" No. 00168 dated 20.12.2016 was issued in favour of Appellant/Claimant subject to final approval by Eligibility Determination Committee (hereinafter called EDC) on merit after scrutiny of the required documents and his fulfilling the requisite conditions as per the policy guidelines issued by DDA. Thereafter, Flat No. 21, Block-A-10, Pocket-4, Ground Floor, Sector-7G, Narela was allotted by DDA by issuing Allotment letter dated 25.10.2017 in his favour. The Appellant/ Claimant had also submitted Affidavit dated 15.11.2017 thereby giving an undertaking that if any facts/documents is/are found to be false/forged then his claim shall be liable to be cancelled. The Appellant/Claimant had shifted to Narela after DDA has made provisional allotment in his favour. Subsequently, the Eligibility Determination Committee has considered the claim of the Appellant/ Claimant on merit and on verifications of documents submitted by the Appellant/ Claimant the Eligibility Determination Committee


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has come to the conclusion that the present Appellant/ Claimant does not fulfill the eligibility criteria as per the policy guidelines issued by DDA and accordingly rejected his claim and the Nodal Officer, Kathputli Colony, duly communicated its order bearing No. F/KPC (N-00008)13/Survey/LM/WZ/4032 dated 10.11.2021 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 265 of 2023 has been filed by the present Appellant/Claimant.

3. It is pointed out that in the month of October 2023 a bunch of about 250 appeals pertaining to Kathputli Colony has been sent to the Appellate Authority for disposal. After receiving of appeals files the same were ordered to be checked & registered and this Appellate Authority has directed to issue notice to procure the presence of the present Appellant/Claimant with the direction that it be got served by deputing official/special messenger and the copy of the same be also pasted on the Notice Board in the Transit Camp, Anand Parbat/Narela as well as on the main gate of the accommodation/flat situated in Transit Camp/Narela in which the Appellant/Claimant is at present living temporarily and in addition to that an attempt be also made by the Call Centre of DDA to intimate the Appellant/Claimant by calling him on his mobile number. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam Meena, Dy. Director.
4. The statement of the Appellant/Claimant has been recorded before us on 14.05.2024. 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. Radhey Shyam Meena, Dy. 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-560/H-247, Kathputli Colony was found to exist but he had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternative 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 10.11.2021 whereby the reasons for rejection is mentioned to


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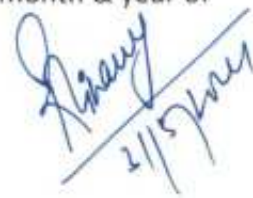

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be "UPPER FLOOR JHUGGI as per policy guidelines separate Ration card is required" and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. 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 by taking holistic & realistic view to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a Separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name 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 and whether he is entitled to claim allotment against the Jhuggi No A-560/H-247, Kathputli Colony as per the policy guidelines issued by DDA.
8. The statement of the Appellant/Claimant Arun has been recorded before us on 14.05.2024, wherein he has stated that his parents, Ram Prasad & Sheela, are having two sons, Arun & Chintu and two daughters Simple & Komal. Whereabouts of Chintu is not known for the last twenty years. All other children are married. Simple is married with Salim and Komal is married with Sajan and both of them are living in their respective matrimonial homes in Alwar, Rajasthan. Arun (Appellant/Claimant) is married with Champi and having four children, Sahil, Mahil, Sumit & Kasak.
9. The Appellant/Claimant has stated that his parents, Ram Prasad & Sheela, were having a pucca single storey Jhuggi No. A-560/H-247 bearing DDA No. 2300 and it comprises of one room but two gates and small open space was lying on the backside of their Jhuggi. The main door of their Jhuggi was opening in the main gali whereas the second gate was opening in the open space on the backside and regarding that DDA has made allotment in favour of his mother Sheela and they have shifted to Narela. These facts are not disputed by DDA.
10. The Appellant/Claimant has stated that he had placed a Tirpal over the said open space lying on the backside of the Jhuggi No. A-560/H-247 bearing DDA No. 2300 of his parents and it was also given Jhuggi No. A-560/H-247 but this structure was a temporary kuchcha structure and was not having any walls & door and accordingly it was an open structure covered with Tirpal.
11. It is pointed out that the Appellant/Claimant has not stated the date, month & year of


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covering the open space lying abutting the rear side of the Jhuggi of his parents. Furthermore, giving same Jhuggi number to the newly laid kuchcha structure to that of his parents further creates doubt & suspicion as it gives an opportunity to the Appellant/Claimant to use the documents, which have been issued in normal course on the address of Jhuggi of his parents to claim allotment from DDA by concocting a wrong & false story that he was living separately & independently in the newly laid Kuchcha structure.

12. The Appellant/Claimant along with his wife Champi and all the children, Sahil, Mahil, Sumit & Kasak was living in that temporary kuchcha type structure and they used to leave the structure unattended when they used to go to different towns in order to earn their livelihood. Accordingly, they were not available in the said Kuchcha structure covered with Tirpal at the time of survey of their Jhuggi in the year 2010-11 as well as in the year 2014.
13. The Appellant/Claimant has stated that he has sought allotment from DDA against the said Kuchcha structure covered with Tirpal, which was not having any walls/door but was bearing Jhuggi No. A-560 and regarding that DDA has made provisional allotment in his favour subject to approval by the Eligibility Determination Committee and had issued DS No. 00168 dated 20.12.2016 (Annexure-A) and Flat No. 21, Block-A-10, Pocket-04, sector-7G, Ground Floor, Narela was allotted to him by vide Allotment Letter dated 25.10.2017 (Annexure-B) and further, he had also submitted an Affidavit dated 15.11.2017 (Annexure-C) wherein he has given an undertaking that if any fact/document is found to be fake/forged, then his provisional allotment would be cancelled. The Appellant/Claimant has shifted to Narela after DDA has made provisional allotment in his favour.
14. The Appellant/Claimant has stated that subsequently his claim was placed before the Eligibility Determination Committee but his claim was rejected by the Eligibility Determination Committee on the ground that he was not having a separate Ration Card which was a mandatory document for the dwellers claiming allotment from DDA against the upper floor in spite of the fact that he has claimed allotment against the single storey structure and further he was having all the requisite documents and also in spite of the fact that DDA has already issued DS No. 00168 dated 20.12.2016 (Annexure-A) and Flat No. 21, Block-A-10, Pocket-04, sector-7G, Ground Floor, Narela was allotted to him by vide Allotment Letter dated 25.10.2017 (Annexure-B) and accordingly, aggrieved by the same he has filed the present Appeal no. 265 of 2023 before the Appellate Authority for


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redressal. The Appellant/Claimant has also tendered document, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make allotment in his favour.

15. DDA has furnished two video clips pertaining Jhuggi No. A-560/H-247, which was played before the Appellant/Claimant when his statement was recorded before us on 14.05.2024 wherein he has stated that the first video clip pertains to the ground floor of the Jhuggi No. A-560/H-247 bearing DDA No. 2300 of his parents, Ram Prasad & Sheela in which his mother Sheela is seen and getting the survey conducted and further the said Jhuggi is seen to be a pucca single storey structure and her room & kitchen are seen and further, "DDA 2300" is seen to have been written on the front wall of the said Jhuggi. The second video clip pertains to Jhuggi against which the Appellant/Claimant has sought allotment from DDA and in that video clip his mother Sheela is seen and getting the survey conducted and further, no Jhuggi is seen but only an open space lying on the rear side of the Jhuggi No. A-560/H-247 of his parents, Ram Prasad & Sheela is seen.
16. It is pointed out that the Appellant/Claimant has subsequently admitted that he has placed a Tirpal to cover the open space lying on the rear side of the Jhuggi No. A-560/H-247 bearing DDA No. 2300 of his parents and further, it was not having any wall/door. The Appellant/Claimant has also admitted that he was not available at the time of survey conducted by DDA in the year 2010-11, in the year 2014 and also in July/August 2017 because they used to go to different towns for earning their livelihood.
17. The Appellant/Claimant has tendered Resurvey Form dated 12.09.2014 (Annexure-D) in which it is mentioned that the Appellant/Claimant has sought allotment from DDA against the Jhuggi No. A-560/H-247 but this Jhuggi was found vacant. In the Resurvey form, the photograph is pasted in which the Appellant/Claimant along with his wife Champi and the children are seen standing outside the open space covered with Tirpal but it is clearly seen that the said structure is not having any wall/door.
18. It is also pointed out that in the video clip prepared by the survey team of DDA, no Jhuggi of the Appellant/Claimant is seen but his mother Sheela is seen and getting the survey conducted while standing on the open land situated on the backside of her Jhuggi No. A-560/H-247.
19. As already pointed out that the Jhuggi of parents of the Appellant/Claimant was a pucca single storey structure bearing Jhuggi No. A-560/H-247 and it was having two gates, one


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was opening on the main gali and the second was opening on the open land on the backside of their Jhuggi and that open land/open space was covered with Tirpal by the Appellant/Claimant but it was not having any walls/door. Therefore, the said structure does not come under the definition of Jhuggi as per the policy guidelines issued by DDA. Furthermore, at the time of survey/ videography no kuchcha structure covered with Tirpal was found but his mother Sheela is seen standing in the open land/open space situation on the backside of her Jhuggi. This accordingly shows that the Appellant/Claimant has come forward with a wrong and false story that he was living independently & separately in Jhuggi No. A-560/H-247 in order to grab allotment from DDA by hook or crook. Therefore, the Appellant/Claimant is not entitled to get allotment from DDA as per the policy/guidelines issued by DDA.

20. 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 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 the Jhuggi No. A-560/H-247 per the policy guidelines issued by DDA.
21. 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.
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 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


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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/JJ 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 JJ dwellers was the student of the School.”

23. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMENTS OF DOCUMENTS

24. As per Clause 1 (6) Part-B 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 in Clause 2. 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 one of the documents out of list of 12 documents.
25. Thus the bare perusal of the Policy shows that for claiming allotment against the **ground floor** the JJ dwellers must be a citizen of India and 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 and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMENTS OF DOCUMENTS

26. As already pointed out above, condition contained in Clause 1 (10) of Part-B of DDA policy runs as under:


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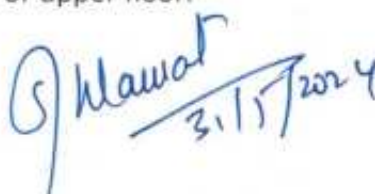
"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

27. Thus Clause 1 (10) of Part-B 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. Therefore, the dweller, who is not having ration card, will not be eligible for allotment even if he possesses any one of the documents out of list of 12 documents.
28. Thus the bare perusal of the Policy shows that for claiming allotment against the first floor the JJ dwellers must be a citizen of India and 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 and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against the upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

29. The bare perusal of the Policy shows that different criterion has been provided for the JJ dwellers claiming alternative allotment against the ground & first floors in the DDA policy because the dweller, who is claiming allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming allotment against the upper floor, to have a ration card issued before the cutoff date of 01.01.2015. Dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor so on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. But both are required to be treated on parity irrespective of that whether they are claiming alternative allotment from DDA against the ground floor or upper floor.


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30. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the point of ration card was not discussed. Therefore, this Appellate Authority changed its view by taking a conservative approach on the requirement of ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further had received 266 appeals on 27.10.2013 pertaining to Kathputli Colony in the second phases and have decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.
31. Now the matter has been settled by way of judicial pronouncement as the legality of requirement of a Ration Card as a mandatory document for the dwellers claiming allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the Hon'ble High Court of Delhi in the case of "**Mohammad Hakam and Another versus Delhi Development Authority**" in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022".
32. The facts of the Mohammad Hakim's case (supra) are that the claim of Petitioner No. 1 (before the Hon'ble High Court) was rejected by the EDC and aggrieved by the same he had filed Appeal No. 61 of 2017/04/2017 before this very Appellate Authority and his appeal was allowed by this Appellate Authority vide order dated 30.01.2019 thereby holding that he fulfills the eligibility criteria as per the guidelines issued by DDA, however, the EDC has wrongly and illegally rejected his claim and accordingly DDA was directed to make allotment in his favour with respect to Jhuggi No. E-278, Kathputli Colony. But the order of the Appellate Authority dated 30.01.2019 was set aside by the Administrative Department of DDA and aggrieved by the same Petitioner No. 1 has filed Writ Petition bearing No. W.P. (C) 1585/2022 before the Hon'ble High Court of Delhi. Similarly, the claim of Petitioner No. 2 (before the Hon'ble High Court) was rejected by the EDC and aggrieved by the same he


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had filed Appeal No. 40 of 2017 before this very Appellate Authority and his appeal was allowed by this Appellate Authority vide order dated 17.08.2018 thereby holding that he fulfills the eligibility criteria as per the guidelines issued by DDA because it was held that the applicant had applied for issuing separate ration card but the concerned authority had refused to issue a separate ration card because of policy of the concerned Food Department and not due to any default or inaction or lapse on his part and thus he had explained the reasons of non issuance of separation card by the Food & Civil Supply Department in his individual name pertaining to the first floor of the Jhuggi in question even though he was living separately & independently, however, the EDC has wrongly and illegally rejected his claim and accordingly DDA was directed to make allotment in his favour with respect to Jhuggi No. E-81, Kathputli Colony. But the order of the Appellate Authority dated 17.08.2018 was set aside by the Administrative Department of DDA and aggrieved by the same Petitioner No. 2 has filed Writ Petition bearing No. W.P. (C) 1585/2022 before the Hon'ble High Court of Delhi. Similarly, the claim of Petitioner No. 3 (before the Hon'ble High Court) was rejected by the EDC and aggrieved by the same he had filed Appeal No. 01 of 2017 before this very Appellate Authority and his appeal was allowed by this Appellate Authority vide order dated 19.07.2018 thereby holding that he fulfills the eligibility criteria as per the guidelines issued by DDA because it was held that the applicant had explained the reasons of non issuance of separation card by the Food & Civil Supply Department in his individual name pertaining to the first floor of the Jhuggi in question even though he was living separately & independently, however, the EDC has wrongly and illegally rejected his claim and accordingly DDA was directed to make allotment in his favour with respect to Jhuggi No. B-643, Kathputli Colony. But the order of the Appellate Authority dated 19.07.2018 was set aside by the Administrative Department of DDA and aggrieved by the same Petitioner No. 3 has filed Writ Petition bearing No. W.P. (C) 2514/2022 before the Hon'ble High Court of Delhi. Both the Writ Petitions bearing W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022" were consolidated. However, pursuant to the filing of the writ petition the case of the petitioner No. 1 was re-examined and reviewed by the competent authority of DDA and it was found that his case was inadvertently recommended for 'non-acceptance' by the competent authority due to mixing of his records with other 62 cases, therefore, DDA rectified its mistake by


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withdrawing the impugned letter of rejection and granting the relief as sought by him in the writ petition. But the relief claimed by the respondent No. 2 & 3 was contested on merit and was decided on 29.02.2023 by **the Hon'ble High Court of Delhi whereby the decisions of the Appellate Authority was upheld thereby setting aside the impugned orders passed by the Administrative Department/Nodal Officer of DDA** wherein it has been held as under: -

"81. In this backdrop, this Court deems it apposite to discuss the concept of Ration card and the aim of issuing the same.

82. The term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System.

83. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder.

84. Moreover, this Court shall now peruse the Para 4(6) of Gazette notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution which disallows the use of ration card as a document of identity or proof of residence. The relevant extract has been reproduced herein below:

"4. Ration Cards.-

XXX

(6) Ration card shall not be used as a document of identity or proof of residence."

85. Hence, ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism setup by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card.

86. The aim of the ration card is to ensure that the citizens of this country are provided foodgrains at a reasonable price. Hence, it is not reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System.

87. Therefore, the respondent has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed gazette


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notification, definition of ration card as well as the intent behind issuance of the same.

88. Furthermore, in the instant petition the petitioners contended that they have applied for Ration Cards, however, they have not been issued the same by the Competent Authority. In this regard, the Court shall discuss the order of the Coordinate Bench of this Court in writ petition bearing no. **Shanti Devi vs Union of India**¹ wherein the petitioner applied for the ration card in the year 2013 (8 years before), however, she was not issued the same for the last 8 years, despite giving several representations. The afore discussed order has been reproduced herein below:

"1. The petitioner, who claims to be falling within the category of persons Below Poverty Line (BPL)" has approached this Court with the grievance that despite repeated representations made by her, she has not been issued a ration card for the last eight years.

2. On the last date, Mr. Narayan, learned counsel for respondent nos.2 to 4 was granted time to obtain instructions. Today, he submits that no ration card could be issued to the petitioner as the limit for issuance of 72 lakh ration cards set by respondent no. 1, based on the Census of 2011, already stands exhausted and therefore, the respondents nos.2 to 4 cannot be faulted for not having issued a ration card to the petitioner."

89. In view of the aforesaid order, it is pertinent to note that ration cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limit for issuance of Ration Card has already been exhausted, therefore, even if a person is eligible to be issued Ration Card, he/she shall not be issued the same.

90. Hence, in light of the aforesaid submissions by the learned counsel for the Delhi Government in the aforesaid writ petition, this Court is of the considered view that the contention of the petitioners in the instant batch of petitions regarding non-issuance of Ration Card holds water.

91. Keeping in mind the aforesaid circumstances, this Court is of the view that mere non-issuance of a Ration Card cannot be a ground for denial of the alternative allotment to the petitioners. The respondent should have introspected into the issue and accordingly, should have taken step to alleviate issues faced by the poor dwellers of the Kathputali Colony.

92. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Moreover, it is responsibility of the respondent that they should have


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introspected into the intent and motive behind issuing of the Ration Card which is distribution of food through Public Distribution System.

93. Therefore, the requirement of a Ration Card as mandatory document to be produced before the respondent as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. The respondent should have exercised due caution and care before adhering to such a requirement. It should take a fair and realistic view of the circumstances before it.

94. The respondent should introspect on the fact that how much harassment and pain must have been caused to the petitioners due to such arbitrary requirements. The afore discussed actions of the respondent is in clear violation of the petitioners' right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of this Court in the judgment of **Udal v. Delhi Urban Shelter Improvement Board and Ors² 2017 SCC OnLine Del 9715** as follows:

"15. It is trite that the right to housing is an essential part of Right to Life and a fundamental right ensured by Article 21 of the Constitution of India. It has also been held that the right to life is not right to merely an animal existence but an entitlement to reasonable accommodation (Ref.: (1996) 2 SCC 549, *Chameli Singh v. State of U.P.* and (1990) 1 SCC 520, *Shantistar Builders v. Narayan Khimalal Totame*). The contours of this right were further expanded by a pronouncement of the Supreme Court reported at (1997) 11 SCC 121, *Ahmadabad Municipal Corporation v. Nawab Khan Gulab Khan* wherein the court held that when slum dwellers have been residing at a place for some time, it became the duty of the government to make schemes for housing these jhuggi dwellers. Relying on the principles laid down in these judgments, this court in 168 (2010) DLT 298, *Sudama Singh v. Government of Delhi* has relied upon the provisions of the Delhi Master Plan and emphasized in-situ rehabilitation of the slum dwellers.

16. Judicial notice can be taken of the fact that the National Capital Territory of Delhi attracts people, especially poor people, from all over the country who come to the city in search of work and must reside reasonably near to their place of work. In recognition of the responsibility to house the poor in a permanent humane manner, the Government of NCT of Delhi announced "Delhi Slum and JJ Rehabilitation and Relocation Policy, 2015". Under Clause 2(a), Delhi Urban Shelter Improvement Board („DUSIB" hereafter) was appointed as the nodal agency for implementation of the policy."

95. Accordingly, this Court is also of the view that the petitioners' right to housing shall be kept at the highest pedestal. It is one of the safeguards provided in our Constitution and the legacy has been carried forward by the writ Court by way of various judicial precedents which reiterates the same.


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96. In the instant petitions, the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over quasi-judicial matters already adjudicated upon by the appellate authority. This aforesaid act of the Nodal officer of the respondent underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petition are set-aside.

97. The decision of the appellate authority is upheld which held that the petitioners are in possession of other documents as stipulated by Clause 2 of the Policy as well as the aforesaid documents are issued before the cut-off date, hence, the petitioners are entitled for an alternative dwelling unit and their claims shall be admitted by the respondent.


98. Accordingly, this Court holds that the impugned orders passed by the Nodal Officer of the respondent are liable to be set-aside.

CONCLUSION

99. The afore-discussed actions of the respondent, ostensibly operating within the framework of legality, struck at the heart of justice, undermining the very principles upon which the judicial system purportedly stands. Subsequent to the petitioners' challenge of the initial rejection, the issuance of a second letter of rejection by the respondent compounded the petitioners' anguish. This second rejection purportedly cited new reasons for denial, yet failed to withstand scrutiny in light of legal precedents previously established by the writ Courts and of particular note was the justification provided by the respondent for the second rejection, namely, the purported non-filing of a ration card by the petitioner. Such a justification, given the petitioner's provision of alternative legal proofs of identity consistent with statutory requirements and prior judicial interpretation, underscored the arbitrary nature of the respondent's actions.

100. The petitioner's distress, exacerbated by the respondent's actions, exemplified the inherent flaws within the legal system, which too often favours the powerful over the marginalized. The respondent's actions, shielded by the veneer of legality, served to perpetuate systemic injustices, leaving the petitioners vulnerable.

101. The Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the jhuggis there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the jhuggis especially in the light of the paragraph no. 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution which disallows the use of ration card as a document of identity or proof of residence. Moreover, the intent of issuance of Ration Card is distribution of essential food items


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by Public Distribution System and hence, it does not intend on being used as an identity proof or an address proof.

102. Hence, the Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 (PART-B) has wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card.

103. This Court is of the view that the respondent shall consider other documents issued before the cut-off date i.e., 1st January 2015 as enlisted in Clause 2 of The Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 (PART-B) which are as follows: Passport, 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 (except EPIC), Pass book issued by Public Sector Banks/ Post Office with photograph, SC/ST/OBC Certificate issued by the Competent Authority Pension document with photograph such as Ex-serviceman's Pension Book, Pension Payment Order, Ex-serviceman widow/dependent certificate, old age pension order or widow pension order, Freedom Fighter Identity Card with photograph, Certificate of physically handicapped with photograph issued by the Competent Authority, Health Insurance Scheme Smart card with photograph (Ministry of Labour scheme, Identity card with photograph issued in the name of the descendants) of the slum dweller from a Government school or Certificate with photograph issued by the Principal of a Government School mentioning therein that the descendants) of the JJ dweller is/was the student of the school.

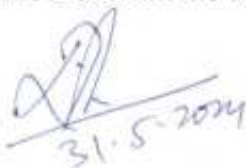
104. In view of the aforesaid discussion, the impugned orders dated 3rd July 2020 in both writ petitions are quashed by this Court by way of exercising its jurisdiction vested under Article 226 of the Constitution of India. Accordingly, the instant petitions are allowed.

105. This Court directs the respondent to allocate an alternative dwelling unit in favor of the petitioners subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of The Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 (PART-B) issued before the cut-off i.e., 1st January 2015, the deposit of amount as stipulated by the respondent as well as any other requirement as mandated by the respondent.

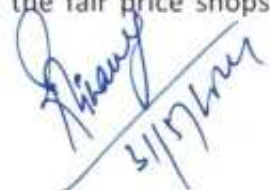
106. Accordingly, the instant petitions alongwith pending applications, if any, are disposed of.

107. The judgment to be uploaded on the website forthwith."

33. The Hon'ble High Court had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops


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under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) OF Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

34. It is further held that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.
35. It was also pointed out that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separation card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench


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of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

36. It is further held that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The decisions of the Appellate Authority were upheld, which held that the petitioners were in possession of other documents as stipulated by Clause 2 of the Policy as well as the aforesaid documents are issued before the cut-off date, hence, the petitioners were held entitled for an alternative dwelling unit and their claims shall be admitted by the respondent/DDA and accordingly, the impugned orders passed by the Nodal Officer of the DDA were set aside.
37. Therefore, the facts of the present appeal are squarely covered by the facts of the Mohammad Hakim's case (supra) wherein the Hon'ble High Court of Delhi has held that the DDA policy as per Clause (1) (x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggis there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis and it has been held that the DDA policy, 2015 (PART-B) has wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered.
38. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the dwellers claiming alternative allotment against the ground floor as well


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as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor. In view of our discussion above, the bare perusal of the DDA Policy 2015 in the light of judgment in Mohammad Hakim's case (supra) shows that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & 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 and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

GIST OF THE POLICY

39. In the light of our discussion above, we shall now appraise the material placed on file by 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 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 possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the Jhuggi No. A-560/H-247 as per the policy guidelines issued by DDA.
40. The Appellant/Claimant has tendered his Voter ID Card No. SMM 2790680 (Annexure-E), Aadhar Card (Annexure-G), PAN Card (Annexure-I) and Voter List of the year 2015 (Annexure-K) in support of his claim.
41. It is pointed out that the Voter ID Card No. SMM 2790680 (Annexure-E) of the Appellant/Claimant has been issued on 22.07.2014, just about four months prior to the cutoff date 01.01.2015 and furthermore, his name also appears at Sl. No. 363 in the Voter List of the year 2015 (Annexure-K). The material placed on file shows that the Appellant/Claimant was having a valid Voter ID Card on the cutoff date 01.01.2015 and further his name also appears in the voter list of the years 2015 but as already pointed out above, the Appellant/Claimant has concocted a wrong and false story that he was living independently & separately in Jhuggi No. A-560/H-247 in order to grab allotment from DDA


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by hook or crook, therefore, the Appellant/Claimant is not entitled to get allotment from DDA as per the policy guidelines issued by DDA.

42. The Appellant/Claimant has tendered Voter ID Card No. SMM2688215 (Annexure-F) & Aadhar Card (Annexure-H) of his wife Champi, Birth Certificate (Annexure-J) of unnamed newly born son in support of his claim.
43. It is pointed out that the ID Card No. SMM2688215 (Annexure-F) of his wife Champi has been issued on 15.11.2013 but no Voter List has been tendered by the Appellant/Claimant to show that his wife Champi had used her ID Card No. SMM2688215 (Annexure-F) to cast vote in any of the elections and more particularly in the year 2012 to 2015. The Birth Certificate (Annexure-J) of unnamed newly born baby son of the Appellant/Claimant has been issued on 13.08.2003. It is pointed 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 the Appellant/Claimant has come forward with a wrong and false story that he was living independently & separately in Jhuggi No. A-560/H-247 in order to grab allotment from DDA by hook or crook, therefore, the Appellant/Claimant is not entitled to get allotment from DDA as per the policy guidelines issued by DDA.
44. The Appellant/ Claimant has contended that his claim was ultimately rejected by the Eligibility Determination Committee vide order dated 10.11.2021 in spite of the fact that much earlier to that DDA has made provisional allotment in his favour by issuing D.S No. 00168 dated 20.12.2016 (Annexure-A) and further Allotment Letter dated 25.10.2017 (Annexure-C) was also issued thereby allotting Flat No.21, Block A-10, Pocket 4, Ground Floor, Sector 7-G, Narela to him but these facts were not duly considered by EDC. Accordingly, he has come before us thereby challenging the order of rejection dated 10.11.2021.
45. It is not disputed that DDA has made provisional allotment in favour of the present Appellant/ Claimant and had issued D.S No. 00168 dated 20.12.2016 (Annexure-A) and further Allotment Letter dated 25.10.2017 (Annexure-C) was also issued thereby allotting Flat No.21, Block A-10, Pocket 4, Ground Floor, Sector 7-G, Narela to him whereas his claim was finally rejected by the EDC on 10.11.2021. Now we shall consider as to what is the legal effect of issuance of D.S No. 00168 dated 20.12.2016 (Annexure-A) and allotting of Flat


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No.21, Block A-10, Pocket 4, Ground Floor, Sector 7-G, Narela to him and whether any right of allotment was created in favour of the Appellant/ Claimant merely by issuing DS etc. by DDA in his favour.

46. It is not disputed before us that Kathputli Colony Project is a pilot project of DDA for in-situ development of Kathputli Colony. In 2010, survey teams were constituted by LM Department, DDA for conducting door-to-door survey of Kathputli Colony JJ Cluster. Survey was initiated in January 2010 and completed in January 2011 and videography was also done of each Jhuggi. The survey list was uploaded on the website of DDA and was also displayed on the Notice Board at Transit Camp, Anand Parbat. In compliance of the Orders of the Hon'ble High Court of Delhi, fresh applications were invited for resurvey after giving wide publicity. The resurvey work began with effect from 13.07.2014 and the same was completed by the end month of September 2014. But because of non-submission of complete documents, no fresh name was incorporated in the main survey list in the year 2014. Thereby considering various representations, DDA had conducted special drive from 19.12.2016 to 30.06.2017 and the names of JJ dwellers whose names did not appear in the earlier survey list were added. Subsequently, DDA had adopted DUSIB/GNCTD policy on 10.02.2017 and the cutoff date was changed to 01.01.2015 for Kathputli Colony. Since the cutoff date was changed and it necessitated conducting fresh survey and the last date of submission was extended several times and it was finally extended up to 25.07.2017. Thereafter, a survey was conducted in the month of July/August 2017. The shifting process of dwellers from Kathputli Colony to Transit Camp, Anand Parbat was started in February 2014 and by the end of July 2014, 527 families were shifted to the Transit Camp. The shifting process was restarted on 19.12.2016 and till 30.06.2017, 826 additional families were shifted to the Transit Camp thereby bringing the total number to 1355. Side by side, the demolition work was also initiated.
47. A public notice dated 25.10.2017 was pasted in the Kathputli Colony and also in the Notice Board of the Project Office of the DDA and dwellers were also informed that on the basis of various surveys and documents submitted by the dwellers/applicants, all the eligible persons having requisite documents as per the policy/guidelines have been included in the survey list and the list stands displayed at Kathputli Colony Project Office and also uploaded on the website of DDA. It was further informed that the dwellers declared provisionally

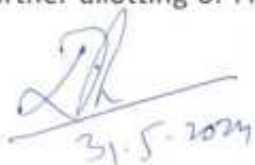

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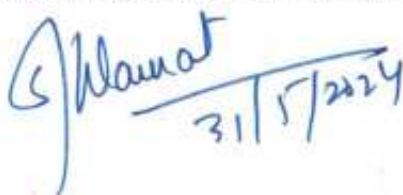

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eligible having names in this list may shift to the Transit Camp, Anand Parbat or Narela. The demolition work was restarted from 06.01.2017 and all the Jhuggis were demolished.

48. JJ dwellers, who were declared provisionally eligible, were shifted to the Transit Camp, Anand Parbat/Narela and their eligibility was subject to scrutiny by Eligibility Determination Committee. The 771 ineligible persons were issued Ineligibility Letters with an opportunity to file appeal before the Appellate Authority constituted by DDA.
49. As per the record, the shifting process of dwellers from Kathputli Colony to Transit Camp Anand Parbat was started in February 2014 and by the end of July 2014, 527 families were shifted to the Transit Camp at Anand Parbat/Narela and in that drive which was conducted from December 2016 to June 2017, about 855 families of JJ dwellers were shifted.
50. It is not disputed before us that an undertaking was obtained from each dweller, who were declared provisionally eligible, before executing agreement/issue of provisional possession letter while shifting, wherein he/she has undertaken that the information/documents submitted by him/her are true & correct and all the documents submitted by him/her are original & genuine and in future, in case the facts are found to be wrong/false and documents submitted by him/her are found to be forged/fabricated, his/her allotment would be treated as cancelled.
51. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly accordingly to the merit of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey of 2010-2011 and of July 2017 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.
52. Now coming to the fact of the present case it is pertinent to point out that the bare reading of Relocation-cum-Allotment Slip (DS) No. 00168 dated 20.12.2016 (Annexure-A) shows that the issuance of D.S No. 00168 dated 20.12.2016 (Annexure-A) and allotting of Flat and further allotting of Flat No.21, Block A-10, Pocket 4, Ground Floor, Sector 7-G, Narela to


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him vide Allotment Letter dated 25.10.2017 (Annexure-C) was subject to fulfillment of terms and conditions of guidelines issued by DDA and this was subject to final scrutiny of eligibility of the Appellant/ Claimant by the Eligibility Determination Committee (EDC) as per the policy guidelines issued by DDA. Furthermore, the Appellant/Claimant had submitted an Affidavit dated 15.11.2017 (Annexure-B) thereby giving an undertaking that if any fact/document is/are found to be false/forged, then his provisional allotment would be cancelled. Thus there is no doubt that DDA has made provisional allotment by issuance of Eviction-cum-Demotion Slip No. D.S No. 00168 dated 20.12.2016 (Annexure-A) and allotting of Flat No.21, Block A-10, Pocket 4, Ground Floor, Sector 7-G, Narela to him vide Allotment Letter dated 25.10.2017 (Annexure-C) and this was subject to final scrutiny of eligibility of the Appellant/ Claimant by the Eligibility Determination Committee as per the policy guidelines issued by DDA and no right of allotment was created in favour of the Appellant/ Claimant merely by issuing DS etc.

53. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Appellant/Claimant has come forward with a wrong and false story that he was living independently & separately in Jhuggi No. A-560/H-247 in order to grab allotment from DDA by hook or crook, therefore, the Appellant/Claimant is not entitled to get allotment from DDA as per the policy guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the D.S No. 00168 dated 20.12.2016 (Annexure-A) and allotting of Flat No.21, Block A-10, Pocket 4, Ground Floor, Sector 7-G, Narela to him vide Allotment Letter dated 25.10.2017 (Annexure-C) on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. It is already pointed out that the Appellant/Claimant had submitted an Affidavit 15.11.2017 (Annexure-B) thereby an undertaking that if any fact/document is/are found to be false/forged, then his provisional allotment would be cancelled. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with his family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-K, furnished by the


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Appellant/ Claimant do not create any legal right, title and interest in his favour to make his eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

54. 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 or illegality in the impugned order bearing No. F/KPC (N-00008)13/Survey/LM/WZ/4032 dated 10.11.2021. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

55. 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) 31.5.2024

Jt. Secretary (Retd.) GOI

MEMBER


(Satish Ahlawat) 31/5/2024

Addl. District & Sessions Judge (Retd.)

CHAIRMAN


(Rachna Tiwary) 21/5/2024

EXPERT MEMBER