JAILORWALA BAGH 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.	33	2024	08-05-2023	Chhatain	Bade Lal	N-207/18, Blk-H	Rejected	01-05-2024
2.	99	2024	13-07-2023	Savita Devi	Dev Narayan	A-42/(A-42/1)	Rejected	01-05-2024
3.	18	2024	03-05-2023	Lalti	Mahender Prajapati	F -135,	Rejected	02-05-2024
4.	98	2024	13-07-2023	Neetoo	Hanshraj	A-75/1	Rejected	06-05-2024
5.	107	2024	13-07-2023	Sumit Kashyap	Mukesh Kashyap	C-81,	Rejected	06-05-2024
6.	151	2024	17-07-2023	Ram shabd Ram	Ram Naresh	G-58	Rejected	07-05-2024
7.	80	2024	12-07-2023	Hari Pratap	Banshi Ram	A-150/1	Rejected	08-05-2024
8.	124	2024	13-07-2023	Isravati	Mangru Ram	G-38/1,	Rejected	08-05-2024
9.	49	2024	12-07-2023	Umesh Kumar	Shri Ram	E-192/4,	Rejected	09-05-2024
10.	17	2024	03-05-2023	Chandrika Prasad	Kalu Prasad	F-137	Rejected	09-05-2024
11.	92	2024	12-07-2023	Geeta	Monti	A-106	Rejected	10-05-2024
12.	129	2024	14-07-2023	Archna	Ranvijay Kumar	H-8	Rejected	10-05-2024
13.	127	2024	14-07-2023	Sayra Bano	Ahmad Ali	H-21	Rejected	13-05-2024
14.	201	2024	19-07-2023	Munna Bhardwaj	Birbal	A-144	Rejected	14-05-2024
15.	187	2024	18-07-2023	Jitender	Kallan	A-181	Rejected	15-05-2024
16.	73	2024	12-07-2023	Reeta	Ram Vilash	F-387	Rejected	15-05-2024
17.	199	2024	19-07-2023	Pushpa devi	Lal Mani	CN-387,	Rejected	16.05.2024
18.	16	2024	03-05-2023	Sarvesh Kumar	Ram Jatan	D-79	Rejected	16-05-2024
19.	84	2024	12-07-2023	Jamil ahmad	Lal Mohammad	A-120,	Rejected	17.05.2024

20.	177	2024	18-07-2023	Neha	Suman	A-133	Rejected	17-05-2024
21.	170	2024	17-07-2023	Goldi	Saurabh	A-133	Rejected	17-05-2024
22.	232	2024	26-07-2023	Md Shahid	Md Noordeen	G-18,	Rejected	21.05.2024
23.	06	2024	02-05-2023	Indresh Saroj	Mani Ram	H-98	Rejected	22-05-2024
24.	110	2024	13-07-2023	Raju	Ram Avadh	F-127	Rejected	24-05-2024
25.	79	2024	12-07-2023	Manoj	Suresh	F-78,	Rejected	27-05-2024
26.	197	2024	19-07-2023	Ranjeet	Paras	D 34,	Rejected	27-05-2024
27.	60	2024	12-07-2023	Sonu Verma	Chadilal Verma	H-203	Rejected	28-05-2024
28.	44	2024	11-07-2023	Anil Kumar	Ram Chander	A-159	Rejected	28-05-2024
29.	82	2024	12-07-2023	Leela Devi	Jitender	CN-123	Rejected	29-05-2024
30.	66	2024	12-07-2023	Gudiya	Shankar Mehto	D-84	Rejected	29-05-2024
31.	58	2024	12-07-2023	Jai Chand	Bansi Ram	N-22E-327	Rejected	30-05-2024
32.	108	2024	13-07-2023	Sandeep Saroj	Hari Ram	A-103/1,	Rejected	30-05-2024
33.	103	2024	13-07-2024	Sheela	Gautam Parsad	F-88	Rejected	31-05-2024

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 33 of 2024

Date of Institution: 08.05.2023

Date of Order: 01.05.2024

Present: Appellant/ Claimant Chhatain W/o Raj Kumar

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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. N-207/18, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey records, the Appellant/ Claimant's Jhuggi bearing No. N-207/18 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer,

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Jailorwala Bagh, duly communicated its order bearing No. 350-10/35.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 33 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of Raj Kumar, who is husband of the Appellant/Claimant Chhatain, has been recorded before us on 21.03.2024 and he has also tendered documents, Annexure-A to Annexure-I, in support of the claim of the Appellant/Claimant Chhatain. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by Raj Kumar, who is husband of the Appellant/Claimant Chhatain, as well as Sh. Dilshad Ahemad, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. N-207/18 was found to exist but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. N-207/18 as per the policy guidelines issued by DDA

8. The statement of Raj Kumar, who is husband of the Appellant/Claimant Chhatain, has been recorded before us on 21.03.2024 wherein he has stated that his wife has got her limbs fractured and accordingly, cannot move, therefore he has appeared before us to make

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statement on her behalf.

9. Raj Kumar has stated that he is married with Chhatain (Appellant/Claimant) and having one son, Rohit and two daughters, Sarita & Babita. Rohit and Babita are unmarried. Sarita is married with Sonu and she is living in her matrimonial home in Pratapgarh, Uttar Pradesh.

10. Raj Kumar has stated that his family is having a double storey Jhuggi No. N-207/18 in Jailorwala Bagh, Ashok Vihar and it comprises of one room on each floor and an iron ladder is placed outside in the gali and it was used for going to the upper floor.

11. Raj Kumar has stated that his real brother Shiv Kumar S/o Bade Lal is living on the first floor of the Jhuggi No. N-207/18 but he has not sought allotment from DDA against the first floor of the said Jhuggi. These facts are not disputed by DDA.

12. Raj Kumar has stated that he along with his wife Chhatain (Appellant/Claimant) and unmarried children Rohit & Babita is living on the ground floor of the said Jhuggi bearing No. N-207/18 and regarding that Chattain (Appellant/Claimant) has sought allotment from DDA against the said double storey Jhuggi No. N-207/18 but her claim has been rejected by the Eligibility Determination Committee on the ground that her Voter ID Card could not be verified and further she has claimed allotment against the first floor of the Jhuggi No. N-207/18 inspite of the fact that she was having all the requisite documents and further she has sought allotment against the said double storey Jhuggi and accordingly, aggrieved by the same, the Appellant/Claimant Chhatain has filed the present Appeal No. 33 of 2024 before the Appellate Authority for redressal. Raj Kumar has tendered documents Annexure-A to Annexure-I, in support of her claim and prayed that DDA be directed to make allotment in favour of his wife Chhatain (Appellant/Claimant).

13. DDA has furnished survey records along with one video clip of Jhuggi No. N-207/18. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. N-207/18 on 18.03.2020 on the ground floor of the said Jhuggi and her photographs & family members are also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

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14. DDA has furnished survey records along with one video clip of Jhuggi No. N-207/18. The video was played before Raj Kumar when his statement was recorded before us on 21.03.2024 wherein he has stated that the video clip pertains to the Jhuggi No. N-207/18 in which the Jhuggi is clearly seen to be a pucca structure and further, the Appellant/Claimant is seen and getting the survey conducted and further, her room & kitchen are also seen and further, she is also seen holding a slate in her hand on which "N-207/18 CHHATAIN G+1" is clearly seen to have been written and further, the Appellant/Claimant is heard thereby making a statement that her Jhuggi is a double storey structure and her children are living on the first floor.

15. It is pertinent to point out that Jhuggi No. N-207/18 is found to be double storey structure but Raj Kumar has stated that his real brother Shivkumar S/o Bade Lal is living on the first floor of the Jhuggi No. N-207/18 whereas the Appellant/Claimant along with her family is living on the ground floor and regarding the said double storey Jhuggi No. N-207/18 she has sought allotment from DDA. But in the video clip prepared by the survey team the Appellant/Claimant is seen and she is heard making a statement that her Jhuggi is a double storey structure and her children are living on the first floor. This shows that at the time of survey the Appellant/Claimant has not stated that her brother-in-law Shiv Kumar S/o Bade Lal is living on the first floor of the Jhuggi No. N-207/18. However, as pointed out above Raj Kumar has stated that even though his brother Shiv Kumar S/o Bade Lal is living on the first floor of the Jhuggi No. N-207/18 but he has not sought allotment from DDA against the first floor of the said Jhuggi. This shows that the double storey Jhuggi No. N-207/18 is a single dwelling unit and regarding that Appellant/Claimant has sought allotment from DDA.

16. There is nothing to disbelieve the statement of Raj Kumar, who is the husband of the present Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the double storey Jhuggi No. N-207/18. Thus the statement of Raj Kumar as well as the survey records/video clips has duly proved that the double storey Jhuggi No. N-207/18 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant was using the same for residential purposes.

17. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. N-207/18 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and

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the Appellant/Claimant along with his family was & is still using the same for residential purposes.

18. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the single storey chappar type kuchcha Jhuggi No. N-207/18 as per the policy guidelines issued by DDA.

19. Raj Kumar, who is husband of the Appellant/Claimant Chhatain, has stated that the claim of the Appellant/ Claimant has been wrongly rejected by DDA and he has tendered documents, Annexure-A to Annexure-I, in support of her claim and prayed that DDA be directed to make allotment in favour of of the Appellant/Claimant Chhatain.

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 cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-10/35.G dated 01.07.2023.

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:

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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 33years 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

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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 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) - REQUIREMNETS 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 33years 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

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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 - REQUIREMNETS 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 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 33years 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

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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 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.

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

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(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 17.08.2038thereby 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 17.08.2033was 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 19.07.2018thereby 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

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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.*
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> *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.*
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> *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."*

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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.

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

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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 Ors[2] 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*

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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.

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

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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 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

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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. 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.

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 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

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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 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.

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

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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 her name appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he 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 double storey Jhuggi No. N-207/18 as per the policy guidelines issued by DDA.

39. Raj Kumar, who is husband of the Appellant/Claimant Chhatain, has tendered the Voter ID Card bearing No. WHC 2167624 (Annexure-A) and Aadhar Card (Annexure-B) of the Appellant/Claimant Chhatain.

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40. It is pointed out that the Voter ID Card No. WHC 2167624 (Annexure-A) of the Appellant/Claimant Chhatain has been issued on 21.01.2017, much after the cutoff date of 01.01.2015 and accordingly, the question of her name appearing in any of the Voter Lists from the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. N-207/18 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

41. Raj Kumar has tendered his Voter ID Card No. WHC 2167632 (Annexure-C), Aadhar Card (Annexure-D) & PAN Card (Annexure-E), Passbook of Union Bank (Annexure-F), Ration Card No. 077004428328 (Annexure-G), Electricity Bill (Annexure-H) and Aadhar Card (Annexure-I) of his daughter Babita.

42. It is pointed out that the Voter ID Card No. WHC 2167632 (Annexure-C) of Raj Kumar has been issued on 13.08.2015, much after the cutoff date of 01.01.2015 and accordingly, the question of his name appearing in any of the Voter Lists from the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. This shows that neither the Appellant/Claimant Chhatain nor her husband Raj Kumar were having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. N-207/18 regarding which she has been claiming allotment from DDA and further, their names also do not appear on the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The Passbook of Union Bank (Annexure-F) shows that the Appellant/Claimant had opened the bank account on 15.11.2018, much after the cutoff date of 01.01.2015. The Ration Card No. 077004428328 (Annexure-G) has been issued in favour of the Appellant/Claimant Chhatain on 14.09.2014. The Electricity Bill (Annexure-H) shows that the electricity connection has been taken by Raj Kumar on 28.11.2013. The Aadhar Card of her daughter Babita is Annexure-I. 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 was not having a Voter ID Card on the cutoff date of

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01.01.2015 issued on the address of Jhuggi No. N-207/18 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

43. 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 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

44. 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 present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. N-207/18 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. 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 survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her 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-I, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her eligible to seek allotment from

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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.

45. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-10/35.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

46. 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 11.07.20232passed by Hon'ble High Court of Delhi in WP(C) No. 6728/20232and C.M. Appeal 25594/20232titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 99 of 2024

Date of Institution: 13.07.2023

Date of Order: 01.05.2024

Present: Appellant/ Claimant Savita Devi W/o Rajinder 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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. A-42/(A-42/1), Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-42/(A-42/1) was found to exist but she had failed to submit requisite

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documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-63/06.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 99 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 03.04.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-G, 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. Dilshad Ahemad, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's single storey Jhuggi bearing No. A-42/(A-42/1) was found to exist but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. A-42/(A-42/1) as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant Savita Devi has been recorded before us on 03.04.2024, wherein she has stated that she is married with Rajinder and having five children, Vicky, Amit, Santoshi, Priyanka & Rani and out of whom Amit, Priyanka & Rani are unmarried. Santoshi is married with Munna and she is living in her matrimonial home in Bihar. Vicky is married with Rajna and having one daughter Baby.

9. The Appellant/Claimant has stated that she along with her family is living in a single storey Jhuggi No. A-42/(A-42/1) and it comprises of one room. The Appellant/Claimant has sought allotment from DDA against the single storey Jhuggi No. A-42/(A-42/1) but her claim has been rejected by the Eligibility Determination Committee on the ground that her Voter ID Card could not be verified and that she has sought allotment against upper floor in spite of the fact that she is having all the requisite documents and further she has claimed allotment from DDA against the single storey Jhuggi and accordingly aggrieved by the same she has filed the present Appeal No. 99 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered document, Annexure-A to Annexure-G, in support of her claim and prayed that DDA be directed to make allotment in her favour.

10. DDA has furnished survey records along with one video clip of Jhuggi No. A-42/(A-42/1). As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. A-42/(A-42/1) on 17.03.2020 on the ground floor of the said Jhuggi and her photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

11. DDA has furnished the survey records along with one video clip of Jhuggi No. A-42/(A-42/1). The video clip was played before the Appellant/Claimant when her statement was recorded before us on 03.04.2024 wherein she has stated the video clip pertains to the Jhuggi No. A-42/(A-42/1) in which the Appellant/Claimant is seen and further, the Jhuggi No. A-42/(A-42/1) is clearly seen to a single storey structure having roof made with asbestos sheet and her room & kitchen are also seen and further, the Appellant/Claimant is seen holding a slate in her hand on which "A-42 SAVITA G.F"is seen to have been written.

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12. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the single storey Jhuggi No. A-42/(A-42/1). Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the single storey Jhuggi No. A-42/(A-42/1) is in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the same for residential purposes.

13. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. A-42/(A-42/1) is in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes.

14. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the single storey Jhuggi No. A-42/(A-42/1) as per the policy guidelines issued by DDA.

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

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 99years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.

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

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

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

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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."

17. 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) - REQUIREMNETS OF DOCUMENTS

18. 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.

19. 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 99years 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

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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 - REQUIREMNETS OF DOCUMENTS

20. 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."

21. 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.

22. 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 99years 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

23. 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

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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.

24. 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.

25. 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".

26. 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

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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 17.08.2099thereby 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 17.08.2099was 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 19.07.2099thereby 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 19.07.2099was set aside by the Administrative Department

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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. 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*

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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 **C**ards, however, they have not been issued the same by the **C**ompetent **A**uthority. 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-

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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 Ors[2] 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*

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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.

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

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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 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

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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."

27. 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. 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.

28. 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.

29. 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

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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.

30. 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.

31. Therefore, the facts of the present appeal are squarely covered by the facts of the

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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.

32. 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

33. 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. A-42/(A-42/1) as per the policy guidelines issued by DDA.

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34. The Appellant/Claimant has tendered her Voter ID Card No. WHC 2216942 (Annexure-A) and Aadhar Card (Annexure-G) in support of her claim.

35. It is pointed out that the Voter ID Card No. WHC 2216942 (Annexure-A) of the Appellant/Claimant has been issued on 16.07.2018, much after the cutoff date 01.01.2015 and accordingly the question of her name appearing in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-42/(A-42/1) regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

36. The Appellant/Claimant has tendered the Passbook of Indian Overseas Bank (Annexure-B), Electricity Bill (Annexure-C), Membership Card of Delhi Building of Other Construction Worker Welfare Board (Annexure-D), Voter ID Card No. WHC 2160793 (Annexure-E) of her husband Rajinder and Ration Card (Annexure-F).

37. It is pointed out that the Passbook of Indian Overseas Bank (Annexure-B) shows that the Appellant/Claimant had opened the account on 13.12.2013. Furthermore, the Electricity Bill (Annexure-C) shows that the Appellant/Claimant had taken the electricity connection in her Jhuggi No. A-42/(A-42/1) regarding which the Appellant/Claimant has been claiming allotment from DDA on 27.07.2017, much after the cutoff date 01.01.2015. The Membership Card of Delhi Building of Other Construction Worker Welfare Board (Annexure-D) has been issued on 17.01.2017, much after the cutoff date 01.01.2015. The Voter ID Card No. WHC 2160793 (Annexure-E) of her husband Rajinder has been issued on 16.07.2018, much after the cutoff date 01.01.2015 and accordingly his name appearing in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. This shows that neither the Appellant/Claimant nor her husband Rajinder were having a valid Voter ID Card on the cutoff date 01.01.2015 issued on the address of Jhuggi No. A-42/(A-42/1) regarding which the Appellant/Claimant has been claiming allotment from DDA. Further, the Ration Card No. 077005254636 (Annexure-F) has been issued in favour of the Appellant/Claimant and the name of her

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family members is mentioned and further, it has been issued on 04.12.2019, much after the cutoff date 01.01.2015. 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 her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-42/(A-42/1) regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

38. 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 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

39. 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 present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-42/(A-42/1) regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. 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 survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her 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-G, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her 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.

40. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-63/06.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

41. Copy of this order be supplied to both the parties as per rules within three days from the 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 11.07.20232passed by Hon'ble High Court of Delhi in WP(C) No. 6728/20232and C.M. Appeal 25594/20232titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 18 of 2024

Date of Institution: 03.05.2023

Date of Order: 02.05.2024

Present: Appellant/ Claimant Lalti W/o Mahendar Prajapati

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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. F-135, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. F-135 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh,

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duly communicated its order bearing No. 350-201/023.1/ dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 18 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 23.04.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. 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. F-135 was found to exist on the first floor but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi No. F-135 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Lalti has been recorded before us on 23.04.2024 wherein she has stated that she is married with Mahender and having four children; Anup,

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Sanjana, Ragini & Priyanka. All the children are unmarried.

9. The Appellant/Claimant has stated that they are having a double storey Jhuggi No. F-135, Jailorwala Bagh, Ashok Bihar and it comprises of one room on each floor and an iron ladder is placed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that Devlash is the maternal uncle of her husband Mahender and the said Devlash along with his wife Savitri & family is living on the ground floor of the Jhuggi No. F-135 and regarding that DDA has made allotment in favour of Savitri. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that she along with her husband Mahender and all the four children; Anup, Sanjana, Ragini & Priyanka, is living on the first floor of the said double storey Jhuggi No. F-135. The Appellant/Claimant has sought allotment from DDA against the first floor of the said double storey Jhuggi No. F-135 but her claim has been rejected by Eligibility Determination Committee on the ground that her Voter Card could not verified/upper floor in spite of the fact that she is having all the requisite documents as per policy guidelines issued by DDA and accordingly, aggrieved by the same, she has filed the present Appeal No. 18 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of her claim and prayed that DDA be directed to make allotment in her favour.

12. DDA has furnished survey records along with two video clips of Jhuggi No. F-135. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. F-135 on 18.03.2020 of the said Jhuggi and her photographs are also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and she had got the survey/videography conducted and the video clips are also attached in token thereof.

13. The videos were played before the Appellant/Claimant when her statement was recorded before us on 23.04.2024 wherein she has stated that in the first video clip the Jhuggi No. F-135 is clearly seen from outside to be a double storey pucca structure and an iron ladder placed outside in the gali and used for going to the upper floor is seen and further, Savitri W/o Devlash is seen on the ground floor of the Jhuggi No. F-135 and getting the survey

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conducted and her room & kitchen are also seen and further, she is also seen holding a slate in her hand on which "F-135 SAVITRI DEVI G.F" is seen to have been written. The second video clip pertains to the first floor of the Jhuggi No. F-135 in which the Appellant/Claimant is seen and getting the survey conducted on the first floor of the Jhuggi No. F-135 and her room & kitchen are also seen. Further, she is also seen holding a slate in her hand on which "F-135 LALTI F.F" is clearly seen to have been written.

14. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the double storey Jhuggi No. F-135. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. F-135 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and Savitri along with her husband Devlash & family is living on the ground floor and regarding which DDA has already made allotment in favour of said Savitri whereas the Appellant/Claimant along with her family is living on the first floor of the said Jhuggi No. F-135 and using the same for residential purposes.

15. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. F-135 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the first floor of the said Jhuggi No. F-135 for residential purposes.

16. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of the said Jhuggi No. F-135 as per the policy guidelines issued by DDA.

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

18. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of

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alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015. 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 her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-201/023.1/ dated 01.07.2023.

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 33years 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."

20. 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

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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) - REQUIREMNETS OF DOCUMENTS

21. 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.

22. 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 33years 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 - REQUIREMNETS OF DOCUMENTS

23. 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."

24. 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

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allotment even 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 first **floor** the JJ dwellers must be a citizen of India and not less than 33years 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

26. 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.

27. 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

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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.

28. 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".

29. 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

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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 17.08.2018was 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 19.07.2018thereby 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 19.07.2033was 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

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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 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***

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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 Ors[2] 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. 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 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.

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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."

30. 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

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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.

31. 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.

32. 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.

33. 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

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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.

34. 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.

35. 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

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(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

36. 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 Jhuggi No. F-135 as per the policy guidelines issued by DDA.

37. The Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), PAN Card (Annexure-D) and Voter List of the year 2023 (Annexure-K) in support of her claim.

38. It is pointed out that the Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-B), which have been issued on the address of the Jhuggi No. F-135, Jailorwala Bagh, Ashok Vihar but the Appellant/Claimant has failed to explain the reasons for getting the second Voter ID Card bearing No. WHC 3659372 (Annexure-B) issued on 24.05.2023 when she was already having the first Voter ID Card bearing No. WHC 3547189 (Annexure-A) issued on 17.03.2021 by Election Commission in her favour. This shows that the second Voter ID Card (Annexure-B) was got issued by concealing material facts about the existence of the first Voter ID Card (Annexure-A). Therefore, the reasons for getting two Voter ID Cards (Annexure-A & Annexure-B) issued by the Appellant/Claimant have not been explained in the present case and this creates doubt & suspicion.

39. The first Voter ID Card (Annexure-A) is bearing number WHC 3547189 (Annexure-A) and it has been issued on 17.03.2021, much after the cutoff date of 01.01.2015 and accordingly, the question of her name appearing in any of the Voter Lists of the years 2012, 2013, 2014

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and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. However, the name of the Appellant/Claimant appears at Sl. No. 666 in the Voter List of the year 2023 (Annexure-K) and in that the number of her Voter ID Card is mentioned to be bearing number WHC 3547189.

40. It is also pointed out that the second Voter ID Card (Annexure-B) is bearing No. WHC 3659372 and it has been issued on 24.05.2023, much after the cutoff date of 01.01.2015. Further, no Voter List has been placed on file to show that the Appellant/Claimant had used her second Voter ID Card (Annexure-B) to cast vote in any of the elections. But the fact remains that both the Voter ID Cards (Annexure-A & Annexure-B) have been issued much after the cutoff date of 01.01.2015 and the name of the Appellant/Claimant 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.

41. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. F-135 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

42. The Appellant/Claimant has tendered the Voter ID Card No. WHC 3654324 (Annexure-E), Aadhar Card (Annexure-F) & PAN Card (Annexure-G) of her husband Mahender, Electricity Bill (Annexure-H) and Passbooks of Indian Bank (Annexure-I & Annexure-J).

43. It is pointed out that the Voter ID Card No. WHC 3654324 (Annexure-E) of Mahender has been issued on 31.01.2023, much after the cutoff date of 01.01.2015 and accordingly, the question of his name appearing in any of the Voter Lists from the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. The material placed on file shows that neither the Appellant/Claimant nor her husband Mahender were having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. F-135, Jailorwala Bagh, regarding which the Appellant/Claimant is claiming allotment from DDA. The Electricity Bill (Annexure-H) shows that the electricity connection has been taken by her husband Mahender on 01.12.2022, much after the cutoff date of

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01.01.2015. Furthermore, the Passbook (Annexure-I) of Indian Bank shows that Mahender has opened the account on 02.12.2022, much after the cutoff date of 01.01.2015. The Passbook (Annexure-J) of Indian Bank shows that the Appellant/Claimant has opened the account on 28.08.2019, much after the cutoff date of 01.01.2015. 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 her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

44. 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 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

45. 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 present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. F-135 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. 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 survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does

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not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her 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 Appellant/ Claimant do not create any legal right, title and interest in her favour to make her 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.

46. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-201/023.1/ dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 98 of 2024

Date of Institution: 13.07.2023

Date of Order: 06.05.2024

Present: Appellant/ Claimant Neetoo W/o Pawan Kumar

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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. A-75/1, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey records, the Appellant/ Claimant's Jhuggi bearing No. A-75/1 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has

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rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-201/15.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 98 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 03.04:2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-H, 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. Dilshad Ahemad, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's double storey Jhuggi bearing No. A-75/1 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. A-75/1 as per the policy guidelines issued by DDA.

8. The statement of the Appellant / Claimant Neetoo has been recorded before us on

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03.04.2024, wherein she has stated that she is married with Pawan Kumar and having two children, Ayush & Avantika.

9. The Appellant/Claimant has stated that she is having a double storey Jhuggi No. A-75/1 and it comprises of one room on each floor and an iron ladder is placed outside in the gali and it has been used for going to the upper floor. The Appellant/Claimant has sought allotment from DDA against the said double storey Jhuggi No. A-75/1 but her claim has been rejected by the Eligibility Determination Committee on the ground that her Voter ID Card could not be verified and also that she has claimed allotment against the upper floor in spite of the fact that she is having all the requisite documents and further she has sought allotment from DDA against the said double storey Jhuggi and accordingly aggrieved by the same she has filed the present Appeal No. 98 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered document Annexure-A to Annexure-H, in support of her claim and prayed that DDA be directed to make allotment in her favour.

10. DDA has furnished survey records along with one video clip of Jhuggi No. A-75/1. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. A-75/1 on 11.03.2020 on the ground floor of the said Jhuggi and her photographs are also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 03.04.2024 wherein she has stated the video clip pertains to the Jhuggi No. A-75/1 in which the Jhuggi is clearly seen to be a double storey structure from outside and further, an iron ladder is also seen placed outside in the gali and used for going to the upper floor. Further, the Appellant/Claimant is seen and getting the survey conducted and her room & kitchen are also seen and further, she is also seen holding a slate in her hand on which "A-75/1 NEETOO G.F" is also seen to have been written.

11. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the double storey Jhuggi No. A-75/1. Thus the statement of the

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Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. A-75/1 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant was using the same for residential purposes.

12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-75/1 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes.

13. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the double storey Jhuggi No. A-75/1 as per the policy guidelines issued by DDA.

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

15. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015. 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 her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No.

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350-201/15.G dated 01.07.2023.

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 98years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
> 10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
> 11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

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As envisaged in para above, the 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."

17. 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) - REQUIREMNETS OF DOCUMENTS

18. 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

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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.

19. 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 98years 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 - REQUIREMNETS OF DOCUMENTS

20. 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."

21. 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.

22. 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 98years 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

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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

23. 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.

24. 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

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105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

25. 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".

26. 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 17.08.2098thereby 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 17.08.2098was set aside by the

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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 19.07.2018thereby 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 19.07.2018was 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. 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 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 **C**ards, however, they have not been issued the same by the **C**ompetent **A**uthority. 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.*

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> *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 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 Ors[2] 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*

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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 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.

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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 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

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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."

27. 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. 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.

28. 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

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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.

29. 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.

30. 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

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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.

31. 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.

32. 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 18years 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.

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GIST OF THE POLICY

33. 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 double storey Jhuggi No. A-75/1 as per the policy guidelines issued by DDA.

34. The Appellant/Claimant has tendered Voter ID Card No. WHC 3635497 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C).

35. It is pointed out that the Voter ID Card No. WHC 3635497 (Annexure-A) of the Appellant/Claimant has been issued on 27.06.2022, much after the cutoff date 01.01.2015 and accordingly the question of her name appearing in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-75/1 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

36. The Appellant/Claimant has tendered the Voter ID Card No. WHC 3640737 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of her husband Pawan, the Passbook of Karnatka Bank Limited (Annexure-G) and the Electricity Bill (Annexure-H).

37. It is pointed out that the Voter ID Card No. WHC 3640737 (Annexure-D) of her husband Pawan has been issued on 14.12.2022, much after the cutoff date 01.01.2015 and accordingly the question of his name appearing in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Thus, neither the Appellant/Claimant nor her husband Pawan was having a valid Voter ID Card on 01.01.2015 issued on the address of Jhuggi No. A-75/1 regarding which she has been

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claiming allotment from DDA. Furthermore, Aadhar Card (Annexure-E) of her husband Pawan has been issued on 08.09.2015, much after the cutoff date 01.01.2015. The Passbook of Karnataka Bank Limited (Annexure-G) shows that the Appellant/Claimant had opened the account but the date of opening of account is not mentioned in that document. The Electricity Bill (Annexure-H) shows that the Appellant/Claimant had taken electricity connection on 24.01.2020, much after the cutoff date 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these document do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-75/1 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

38. 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 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

39. 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 present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-75/1 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/

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Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her 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-H, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her 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.

40. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-201/15.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

41. Copy of this order be supplied to both the parties as per rules within three days from the 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 11.07.20232passed by Hon'ble High Court of Delhi in WP(C) No. 6728/20232and C.M. Appeal 25594/20232titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary**

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

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 107 of 2024

Date of Institution: 13.07.2023

Date of Order: 06.05.2024

Present: Appellant/ Claimant Sumit Kashyap S/o Mukesh Kashyap

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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-81, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-81 was found to exist but

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he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-204/021.G/ dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 107 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 04.04.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-F, 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. Dilshad Ahemad, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-81 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. C-81 as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant Sumit Kashyap has been recorded before us on 04.04.2024 wherein he has stated that his parents, Mukesh Kashyap & Vimla, are having one son, Sumit (Appellant/Claimant). Vimla had expired in the year 2002. Whereas Mukesh is living in his native village in Kasganj, Uttar Pradesh. The Appellant/Claimant is unmarried and he is living in Jhuggi bearing No. C-81, Jailorwala Bagh, Ashok Vihar.

9. The Appellant/Claimant has stated that he is having a double storey Jhuggi bearing No. C-81 and it comprises of one room on each floor and the room on the ground floor is used for residential purposes whereas the room on the first floor is used as kitchen and an iron ladder is placed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that he has sought allotment from DDA against the said double storey Jhuggi No. C-81 but his claim has been rejected by the Eligibility Determination Committee on the ground that his Voter ID Card could not be verified and further he has claimed allotment against the first floor of the Jhuggi No. C-81 inspite of the fact that he was having all the requisite documents and further he has sought allotment against the said double storey Jhuggi No. C-81 and accordingly, aggrieved by the same, he has filed the present Appeal No. 107 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-F, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished survey records along with one video clip of Jhuggi No. C-81. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. C-81 on 18.03.2020 on the ground floor of the said Jhuggi and his photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

12. DDA has furnished survey records along with one video clip pertaining to the Jhuggi No. C-81. The video was played before the Appellant/Claimant when his statement was recorded before us on 04.04.2024 wherein he has stated that the video clip pertains to

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the Jhuggi No. C-81 in which the Jhuggi is clearly to be a double storey structure from outside and further, the Appellant/Claimant is seen and getting the survey conducted and his room & kitchen are also seen and further, he is also seen holding a slate in his hand on which "C-81 SUMIT KASHYAP G+1" is clearly seen to have been written.

13. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the double storey Jhuggi No. C-81. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. C-81 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is living in the said double storey Jhuggi No. C-81 and using the same for residential purposes.

14. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-81 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant was & is still using the said double storey Jhuggi No. C-81 for residential purposes.

15. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi No. C-81 as per the policy guidelines issued by DDA.

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

17. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units.

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Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a 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. 350-204/021.G/ dated 01.07.2023.

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 33years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.

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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."

19. 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

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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) - REQUIREMNETS OF DOCUMENTS

20. 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.

21. 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 33years 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 - REQUIREMNETS OF DOCUMENTS

22. 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."

23. Thus Clause 1 (10) of Part–B of the DDA policy makes the requirement of having a ration

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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.

24. 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 33years 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

25. 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.

26. 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

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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.

27. 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".

28. 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

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Authority and his appeal was allowed by this Appellate Authority vide order dated 17.08.2033thereby 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 17.08.2038was 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 19.07.2038thereby 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 19.07.2038was 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*

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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 **C**ards, however, they have not been issued the same by the **C**ompetent **A**uthority. 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

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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 Ors[2] 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."*

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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.

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

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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 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 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.

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

29. 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. 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.

30. 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.

31. 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

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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.

32. 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.

33. 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

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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.

34. 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

35. 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. C-81 as per the policy guidelines issued by DDA.

36. The Appellant/Claimant has tendered his Voter ID Card No. WHC 2281772 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of his claim.

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37. It is pointed out that the Appellant/Claimant has tendered his Voter ID Card bearing number WHC 2281772 (Annexure-A) and it has been issued on 03.01.2018, much after the cut off date of 01.01.2015. It is pertinent to point out that the digit "1" in the year "2018" of this Voter ID Card No. WHC 2281772 has been erased in order to make this document appear to have been issued on 03.01.2018. This creates doubt & suspicion and shows that the Appellant/Claimant has made interpolation in the Voter ID Card No. WHC 2281772 (Annexure-A) thereby erasing the digit "1" in the year "2018" in order to make it appear to have been issued on 03.01.2008 in order to grab allotment from DDA by hook or crook.

38. Further, since this Voter ID Card No. WHC 2281772 has been issued on 03.01.2018, therefore, the question of his name arising in any of the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. C-81 regarding which he has been claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

39. The Appellant/Claimant has also tendered the Electricity Bill (Annexure-D), Passbook of PNB (Annexure-E) and Ration Card No. 077004357543 (Annexure-F).

40. It is pointed out that the Appellant/Claimant has tendered the Electricity Bill (Annexure-D) and it shows that the Appellant/Claimant has taken the electricity connection on the address of the Jhuggi No. C-81 on 12.08.2016, much after the cut off date of 01.01.2015. The Passbook of PNB (Annexure-E) shows that the Appellant/Claimant had opened the account on 28.09.2012. Furthermore, the Ration Card No. 077004357543 has been issued in favour of the Appellant/Claimant on 03.09.2014. 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 was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. C-81 regarding which he has been claiming allotment from DDA and further his name also does

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not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

41. 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 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

42. 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 present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. C-81 regarding which he has been claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. 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 survey conducted 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. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her 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-F, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her 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

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issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

43. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-204/021.G/ dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

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

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 151of 2024

Date of Institution: 17.07.2023

Date of Order: 07.05.2024

Present: Appellant/ Claimant Ram Shabd Ram S/o Ram Naresh

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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. G-58, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey records, the Appellant/ Claimant's Jhuggi bearing No. G-58 was found to exist but he had failed to submit requisite documents as per

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the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-32/0043.G/ dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 151 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 10.04.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-E, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. 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. G-58 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. G-58 as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant Ram Shabd Ram has been recorded before us on 10.04.2024 wherein he has stated that he is married with Vimla and having four children; Sunder, Sashikant, Sapna & Khushboo. All the children except Sapna are unmarried. Sapna is married with Surinder and she is living in her matrimonial home in Azamgarh, Uttar Pradesh.

9. The Appellant/Claimant has stated that he is having a single storey kuchcha chappar type Jhuggi bearing No. G-58 and it comprised of one room. The Appellant/Claimant has stated that he has sought allotment from DDA against the said single storey Jhuggi No. G-58 but his claim has been rejected by the Eligibility Determination Committee on the ground that his Voter ID Card could not be verified and further he has claimed allotment against the upper floor in spite of the fact that he was having all the requisite documents and further he has claimed allotment from DDA against the single storey Jhuggi No. G-58 and accordingly, aggrieved by the same, he has filed the present Appeal No. 151 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-E, in support of his claim and prayed that DDA be directed to make allotment in his favour.

10. DDA has furnished survey records along with one video clip of Jhuggi No. G-58. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. G-58 on 17.03.2020 on the ground floor of the said Jhuggi and his photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

11. DDA has furnished survey record along with one video clip pertaining to the Jhuggi No. G-58. The video was played before the Appellant/Claimant when his statement was recorded before us on 10.04.2024 wherein he has stated that the video clip pertains to the Jhuggi No. G-58 in which the Jhuggi No. G-58 is clearly to be a kuchcha single storey chappar type structure and having two walls made with bricks and further, his room & kitchen are also seen and further, he is also seen holding a slate in his hand on which "G-58 RAM SHABD RAM G.F" is clearly seen to have been written.

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12. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the single storey Jhuggi No. G-58. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the single storey Jhuggi No. G-58 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is living in the said single storey Jhuggi No. G-58 and using the same for residential purposes.

13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. G-58 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant was & is still using the said double storey Jhuggi No. G-58 for residential purposes.

14. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi No. G-58 as per the policy guidelines issued by DDA.

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

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

> **"Part-B**
>
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 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.

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

<u>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:</u>

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

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- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/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."

17. 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) - REQUIREMNETS OF DOCUMENTS

18. As per Clause 1 (6) Part–B of DA 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.

19. 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

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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 - REQUIREMNETS OF DOCUMENTS

20. 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."

21. 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.

22. 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

23. 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

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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.

24. 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 Jailorwala Bagh, 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 Jailorwala Bagh, 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.

25. 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".

26. 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

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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 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

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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. 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."*

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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 **C**ards, however, they have not been issued the same by the **C**ompetent **A**uthority. 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

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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 Ors[2] 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*

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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. 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 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

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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.

The Hon'ble *107. The judgment to be uploaded on the website forthwith."*

27. 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. 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.

28. 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.

29. 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

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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.

30. 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.

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31. 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.

32. 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

33. 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 the said single storey Jhuggi No. G-58 as per the policy

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guidelines issued by DDA.

34. The Appellant/Claimant has tendered his Voter ID Card No. WHC 3660057 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of his claim.

35. It is pointed out that the Appellant/Claimant has tendered his Voter ID Card bearing number WHC 3660057 (Annexure-A) and it has been issued on 24.05.2023, much after the cut off date of 01.01.2015, therefore, the question of his name arising in any of the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. G-58 regarding which he has been claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

36. The Appellant/Claimant has also tendered the Passbook of SBI (Annexure-D) and Electricity Bill (Annexure-E) in support of his claim.

37. It is pointed out that the Appellant/Claimant has tendered Passbook of SBI (Annexure-D) and it shows that the Appellant/Claimant had opened the account on 01.01.2013. The Electricity Bill (Annexure-E) shows that the Appellant/Claimant has taken the electricity connection on 18.03.2011. 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 was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. G-58 regarding which he has been claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

38. 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

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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 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

39. 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 present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. G-58 regarding which he has been claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. 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 survey conducted 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. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her 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-E, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her 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.

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

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350-32/0043.G/ dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 80 of 2024

Date of Institution: 12.07.2023

Date of Order: 08.05.2024

Present: Appellant/ Claimant Hari Pratap S/o Banshi Ram

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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-150/1, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-150/1 was found to exist but he had failed to submit requisite documents as

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per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-64/13.G/ dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 80 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 01.04.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-G, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Dilshad Ahemad, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-150/1 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. A-150/1 as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant Hari Pratap has been recorded before us on 01.04.2024 wherein he has stated that he is married with Rinku Devi and having three children; Krishna, Ritik & Nandani. All the children are unmarried.

9. The Appellant/Claimant has stated that he is having a Jhuggi bearing No. A-150/1 which was a single storey Jhuggi and he had placed a kuchcha chappar on the first floor and has placed a bamboo ladder outside in the gali and used it for going to the upper floor. Regarding this Jhuggi he has sought allotment from DDA but his claim was rejected by Eligibility Determination Committee on the ground that his Voter ID Card could not be verified and further he has claimed allotment from DDA against the first floor in spite of the fact that he was having all the requisite documents as per policy guidelines issued by DDA and he has sought allotment against the said double storey Jhuggi and accordingly, aggrieved by the same, he has filed the present Appeal No. 80 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-G, in support of his claim and prayed that DDA be directed to make allotment in his favour.

10. DDA has furnished survey records along with one video clip of Jhuggi No. A-150/1. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. A-150/1 on 25.03.2020 on the ground floor of the said Jhuggi and the photograph of his wife is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

11. DDA has furnished survey record along with one video clip pertaining to the Jhuggi No. A-150/1. The video was played before the Appellant/Claimant when his statement was recorded before us on 01.04.2024 wherein he has stated that the video clip pertains to the Jhuggi No. A-150/1 in which Jhuggi is clearly seen from outside to be a double storey structure and having a kuchcha chappar on the first floor and a bamboo ladder is also seen which is used for going to the upper floor and further, the Appellant/Claimant is seen and getting the survey conducted and his room & kitchen are also seen and further, he is also

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seen holding a slate in his hand on which "A-150/1 HARI PRATAP G+1" is clearly seen to have been written.

12. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the double storey Jhuggi No. A-150/1. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. A-150/1was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is living in the said double storey Jhuggi No. A-150/1 and using the same for residential purposes.

13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-150/1 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant was & is still using the said double storey Jhuggi No. A-150/1 for residential purposes.

14. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi No. A-150/1 as per the policy guidelines issued by DDA.

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

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

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claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a 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. 350-64/13.G/ dated 01.07.2023.

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 33years 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

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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."

18. 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.

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GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNETS OF DOCUMENTS

19. 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.

20. 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 33years 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 - REQUIREMNETS OF DOCUMENTS

21. 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."

22. 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.

23. Thus the bare perusal of the Policy shows that for claiming allotment against the first **floor**

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the JJ dwellers must be a citizen of India and not less than 33years 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

24. 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.

25. 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

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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.

26. 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".

27. 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 17.08.2033thereby 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

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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 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: -

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"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 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***

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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

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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 Ors[2] 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

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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 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)

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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."

28. 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

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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.

29. 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.

30. 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.

31. 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.

32. 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.

33. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been

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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

34. 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-150/1 as per the policy guidelines issued by DDA.

35. The Appellant/Claimant has tendered his Voter ID Card No. WHC 3278292 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of his claim.

36. It is pointed out that the Appellant/Claimant has tendered his Voter ID Card bearing number WHC 3278297 (Annexure-A) and it has been issued on 03.10.2019, much after the cut off date of 01.01.2015 and accordingly, the question of his name arising in any of the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a valid Voter ID Card on the cut off date of 01.01.2015 issued on the address of the Jhuggi No. A-150/1, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further, his name also does not appear in the Voter Lists

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of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant is not entitled for claiming alternate allotment from DDA.

37. The Appellant/Claimant has also tendered the Voter ID Card No. WHC 3278280 (Annexure-D) & Aadhar Card (Annexure-E) of his wife Rinku Devi, Electricity Bill (Annexure-F) and Ration Card (Annexure-G) in support of his claim.

38. It is pointed out that the Voter ID Card No. WHC 3278280 (Annexure-D) of Rinku Devi has been issued on 03.10.2019, much after the cut off date of 01.01.2015 and accordingly, the question of her name arising in any of the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. The material placed on file shows that neither the Appellant/Claimant nor his wife Rinku Devi were having a valid Voter ID Card on on the cut off date of 01.01.2015 issued on the address of the Jhuggi No. A-150/1, regarding which he is claiming allotment from DDA and furthermore, their names also does not appear in the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Furthermore, the Electricity Bill (Annexure-F) shows that the electricity connection has been taken by the Appellant/Claimant on 03.07.2018, much after the cut off date of 01.01.2015. Furthermore, the Ration Card bearing No. 077005256099 (Annexure-G) has been issued in favour of his wife Rinku Devi on 21.12.2019, much after the cut off date of 01.01.2015 and the name of the Appellant/Claimant also appears therein. 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 was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. A-150/1, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

39. 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

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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 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

40. 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 present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. A-150/1, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. 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 survey conducted 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. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her 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-G, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her 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.

41. 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

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rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-64/13.G/ dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

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

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 124 of 2024

Date of Institution: 13.07.2023

Date of Order: 08.05.2024

Present: Appellant/ Claimant Israwati W/o Mangru Ram

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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. G-38/1, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. G-38/1 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative

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allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-205/006.G/ dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 124 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 05.04.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Dilshad Ahemad, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. G-38/1 was found to exist but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. G-38/1 as per the policy guidelines issued by DDA.

8. The Appellant/Claimant Israwati has claimed allotment from DDA against the Jhuggi No. G-

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38/1 but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same, she has filed the Appeal No. 124 of 2024 before the Appellate Authority for redressal. However, she has got paralytic attack, which has made her immobile, and accordingly, she is not in position to move out of the bed. Therefore, the statement of her son Dharminder has been recorded on behalf of the Appellant/Claimant on 05.04.2024.

9. Dharminder has stated that his parents, Mangru Ram & Israwati (Appellant/Claimant), are having three sons; Kamlesh, Pravesh & Dharminder and three daughters; Sheela, Mila & Pramila. All the children except Pravesh are married. Sheela is married with Bechu, Mila is married with Sanjay and Pramila is married with Satender and all of them are living in their respective matrimonial homes in Azamgarh, Uttar Pradesh. Kamlesh is married with Anita and having four children and he is also living in his native village in Azamgarh, Uttar Pradesh. Dharminder is married with Nitu and having three children, Anju, Gudia & Anshu.

10. Dharminder has stated that his family is having a double storey Jhuggi bearing No. G-38/1 and it comprises of one room on each floor and a bamboo ladder has been placed outside in the gali and it is used for going to the upper floor.

11. Dharminder has stated that his mother Israwati (Appellant/Claimant) has sought allotment from DDA against the said double storey Jhuggi No. G-38/1 but her claim has been rejected by the Eligibility Determination Committee on the ground that her Voter ID Card could not be verified and further she has claimed allotment against the upper floor in spite of the fact that she is having all the requisite documents and further, she has claimed allotment from DDA against the double storey Jhuggi No. G-38/1 and accordingly, aggrieved by the same, she has filed the present Appeal No. 124 of 2024 before the Appellate Authority for redressal. Dharminder has also tendered documents, Annexure-A to Annexure-J, in support of the claim of his mother Israwati (Appellant/Claimant) and prayed that DDA be directed to make allotment in favour of his mother.

12. DDA has furnished survey records along with one video clip of Jhuggi No. G-38/1. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. G-38/1 on 18.04.2020 on the ground floor of the said Jhuggi and her photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the son of the Appellant/Claimant

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was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

13. DDA has furnished survey records along with one video clip pertaining to the Jhuggi No. G-38/1. The video was played before Dharminder when his statement was recorded before us on 05.04.2024 wherein he has stated that the video clip pertains to the Jhuggi No. G-38/1 in which Dharminder, who is son of the Appellant/Claimant Israwati, is seen and getting the survey conducted on behalf of his mother Israwati (Appellant/Claimant) while standing on the ground floor and her room & kitchen are also seen and further, he is also seen holding a slate in his hand on which "G-38/1 ISRAVATI G+1" is seen to have been written and further, he is also heard stating that they are having a double storey Jhuggi.

14. There is nothing to disbelieve that statement of Dharminder which has been fully corroborated by the survey records placed on file by DDA as well as the video clip prepared by the survey team of DDA and it shows that the Jhuggi No. G-38/1 is a double storey pucca structure and in that the Appellant/Claimant Israwati along with her family is living and using the same exclusively for residential purposes.

15. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. G-38/1 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the the said double storey Jhuggi No. G-38/1 for residential purposes

16. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of the said Jhuggi No. G-38/1 as per the policy guidelines issued by DDA.

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

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18. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-205/006.G/ dated 01.07.2023.

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 33years 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

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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."

20. 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

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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) - REQUIREMNETS OF DOCUMENTS

21. 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.

22. 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 33years 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 - REQUIREMNETS OF DOCUMENTS

23. 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."

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24. 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.

25. 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 33years 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

26. 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.

27. 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

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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.

28. 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".

29. 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 17.08.2033thereby holding that he

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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

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

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*88. Furthermore, in the instant petition the petitioners contended that they have applied for Ration **C**ards, however, they have not been issued the same by the **C**ompetent **A**uthority. 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 through Public Distribution System.

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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 Ors[2] 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

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

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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."

30. 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

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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.

31. 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.

32. 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.

33. 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.

34. 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.

35. 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

36. 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 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 she is entitled to claim allotment against the Jhuggi No. G-38/1 as per the policy guidelines issued by DDA.

37. Dharminder has tendered the Voter ID Card No. WHC 3659570 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) of the Appellant/Claimant Israwati.

38. It is pointed out that the Voter ID Card bearing number WHC 3659570 (Annexure-A) of the Appellant/Claimant Israwati has been issued on 24.05.2023, much after the cut off date of 01.01.2015 and accordingly, the question of her name arising in any of the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise.

39. It is pointed out that Dharminder has stated that his mother Israwati was having a Voter ID Card issued prior to the issuance of her Voter ID Card No. WHC 3659570 (Annexure-A) in the year 2023, but the earlier Voter ID Card has been misplaced. However, the statement of Dharminder cannot be believed on this aspect, especially when he has failed to provide

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the number of the earlier Voter ID Card of the Appellant/Claimant Israwati, which is alleged to have been misplaced. Further, Dharminder has not placed Police Report on file to substantiate his stand. Had the Appellant/Claimant having a Voter ID Card, then the same would have been reflected in the Voter Lists but neither the photocopy/original of the earlier Voter ID Card nor the Voter List has been placed on file to corroborate the statement of the Appellant/Claimant and this shows that he has concocted a wrong & false story of his mother having a Voter ID Card issued prior to the issuance of the Voter ID Card No. WHC 3659570 (Annexure-A).

40. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. G-38/1, Jailorwala Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

41. Dharminder has also tendered the Electricity Bill (Annexure-D), his Voter ID Card (Annexure-E), Aadhar Card (Annexure-F) & PAN Card (Annexure-G) as well as the Passbook of Bank of India (Annexure-H), Ration Card (Annexure-I) and the Voter List of the year 2014 (Annexure-J).

42. It is pointed out that the Electricity Bill (Annexure-D) shows that the electricity connection has been taken by Dharminder on 18.02.2009, much prior to the cut off date of 01.01.2015. Furthermore, the Voter ID Card No. WHC 2017374 of Dharminder has been issued on 18.01.2014, much prior to the cut off date of 01.01.2015. Furthermore, his name also appears at Sl. No. 1450 in the Voter List of the year 2014 (Annexure-J). The Passbook of Bank of India (Annexure-H) shows that the account has been opened by Dharminder on 22.11.2013. It is pointed out that all the documents pertains to Dharminder and not to the Appellant/Claimant and accordingly these are not material to determine the eligibility of the Appellant/Claimant, especially when as per our discussion above, it has been found that she was not having a valid Voter ID Card issued on the cut off date of 01.01.2015 issued on the address of the Jhuggi No. G-38/1, Jailorwala Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. It

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is pointed out that the Ration Card No. 077004364899 (Annexure-I) has been issued in favour of the Appellant/Claimant and the names of her both the sons; Kamlesh & Dharminder have been mentioned but the name of her husband Mangru Ram and other son, Pravesh have been conspicuously missing. 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 her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. G-38/1, Jailorwala Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

43. 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 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

44. 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 present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. G-38/1, Jailorwala Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. 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 survey conducted on the basis of wrong

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and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her 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-J, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her 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.

45. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-205/006.G/ dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

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

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 49 of 2024

Date of Institution: 12.07.2023

Date of Order: 09.05.2024

Present: Appellant/ Claimant Umesh Kumar S/o Shri Ram

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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. E-192/4, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. E-192/4 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination

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Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-18/0020.G/ dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 49 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam Meena, 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-F, 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. Dilshad Ahemad, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. E-192/4 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. E-192/4 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Umesh Kumar has been recorded before us on

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22.03.2024, wherein he has stated that he is married with Sunita and having three children, Nandani, Pragya & Nayra. Previously, he was living on rent at Lalbagh, Azadpur and in the year 2018 he had purchased Jhuggi No. E-192/4 from one Raja Ram for a sale consideration of Rs. 1,00,000/- but he does not know the name of the father of the vendor Raja Ram. He also does not possess requisite document regarding the sale. However, the fact remains that the Appellant/Claimant was not living in Jailorwala Bagh on the cutoff date of 01.01.2015 as he had purchased the Jhuggi No. E-192/4 regarding which he has been claiming allotment from DDA in the year 2018, therefore, the Appellant/Claimant is not eligible to seek allotment from DDA as per the policy guidelines issued by DDA.

9. The Appellant/Claimant has stated that Jhuggi No. E-192/4 is a triple storey structure and it comprises of one room on each floor and an iron ladder is placed outside in the gali and it is used for going to the upper floor. The Appellant/Claimant along with his family is living on the ground floor whereas his brother Amarjeet along with his wife Gita is living on the first floor and the room on the second floor is used as storeroom by them. His brother Amarjeet has not sought allotment from against the first floor of the Jhuggi No. E-192/4.

10. The Appellant/Claimant has stated that he has sought allotment from DDA against the entire triple storey Jhuggi No. E-192/4 but his claim was rejected by the Eligibility Determination Committee on the ground that his Voter ID Card could not be verified and further he has claimed allotment against the upper floor in spite of the fact that he is having required documents as per the policy guidelines issued by DDA and further he has claimed allotment against the entire triple storey Jhuggi No. E-192/4, which belongs to him and he was living with his family on the ground floor and second floor was used by him as storeroom whereas his brother Amarjeet was living on the first floor of the Jhuggi No. E-192/4 and aggrieved by the same he has filed the present Appeal No. 49 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-F, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished survey records along with one video clip of Jhuggi No. E-192/4. As per survey records the survey was got conducted by the wife of the Appellant/Claimant of Jhuggi No. E-192/4 on 17.03.2020 on the said Jhuggi and the photographs of his wife is also

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attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

12. DDA has furnished the survey records along with one video clip of Jhuggi No. E-192/4. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 22.03.2024 wherein the Appellant/Claimant has stated the video clip pertains to the Jhuggi No. E-192/4 in which the Appellant/Claimant is seen and getting the survey conducted on the ground floor of the Jhuggi No. E-192/4 and his room & kitchen are also seen and further, an iron ladder is also seen placed on the ground floor outside in the gali and used for going to the upper floor and further, the Appellant/Claimant is seen holding a slate in his hand on which " E-67 (E-192/4) UMESH KUMAR G+1" is seen to have been written and further the Appellant/Claimant is also heard stating that his Jhuggi No. E-192/4 is a double storey structure and his brother is living on the first floor.

13. The admission of the Appellant/Claimant is a clincher piece of evidence because he has specifically admitted that previously he was living on rent at Lalbagh, Azadpur and in the year 2018 he had purchased triple storey Jhuggi No. E-192/4, Jailor Wala Bagh and started living there. This admission is clincher piece of evidence and it clearly shows that the Appellant/Claimant along with his family was not living on the cutoff date 01.01.2015 in Jhuggi No. E-192/4 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfil the eligibility criteria as per the policy guidelines issued by DDA.

14. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi No. E-192/4 as per the policy guidelines issued by DDA.

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

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a 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. 350-18/0020.G/ dated 01.07.2023.

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

> **"Part-B**
>
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 33years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.

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6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the 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.

<u>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:</u>

- 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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18. 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) - REQUIREMNETS OF DOCUMENTS

19. 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.

20. 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 33years 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 - REQUIREMNETS OF DOCUMENTS

21. 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."

22. 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.

23. 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 33years 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

24. 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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25. 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.

26. 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".

27. 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.

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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 17.08.2033thereby 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 17.08.2033was 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 19.07.2033thereby 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 19.07.2033was 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

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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. 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.*

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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 **C**ards, however, they have not been issued the same by the **C**ompetent **A**uthority. 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

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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 Ors[2] 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

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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.

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

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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 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."

28. 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

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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. 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.

29. 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.

30. 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

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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.

31. 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.

32. 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

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considered.

33. 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 ~~38~~ 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

34. 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 first floor of the said Jhuggi No. E-192/4 as per the policy guidelines issued by DDA.

35. The Appellant/Claimant has tendered his Voter ID Card No. WHC 2325411 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C).

36. It is pointed out that the Voter ID Card No. WHC 2325411 (Annexure-A) of the Appellant/Claimant has been issued on 30.03.2019, much after the cutoff date 01.01.2015 and accordingly, the question of his name appearing in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not

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having a valid Voter ID Card on the cutoff date 01.01.2015 and further, his name also does not appear in the Voter List from 2012 to 2015. In addition to that as per our discussion above the Appellant/Claimant along with his family was not living on the cutoff date 01.01.2015 in Jhuggi No. E-192/4 regarding which he is claiming allotment from DDA because he had purchased the said Jhuggi No. E-192/4 in the year 2018. Therefore, we have no hesitation in holding that the Appellant/Claimant along with his family was not living on the cutoff date 01.01.2015 in Jhuggi No. E-192/4 regarding which he is claiming allotment from DDA and further the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

37. The Appellant/Claimant has tendered Electricity Bill (Annexure-D), Voter ID Card No. WHC 3549755 (Annexure-E) of his wife Sunita and the Passbook of Canara Bank (Annexure-F).

38. It is pointed out that the Electricity Bill (Annexure-D) shows that the Appellant/Claimant had taken electricity in Jhuggi No. E-192/4 and the date of Energisation is give to be 09.05.2019, much after the cutoff date 01.01.2015. Furthermore, the Voter ID Card No. WHC 3549755 (Annexure-E) of his wife Sunita has been issued on 29.07.2020, much after the cutoff date 01.01.2015 and accordingly the question of her name appearing in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Furthermore, the Passbook of Canara Bank (Annexure-F) shows that the Appellant/Claimant had opened the account on 20.08.2020, much after the cutoff date 01.01.2015. The material placed on file shows that neither the Appellant/Claimant nor his wife Sunita was having Voter ID Card on the cutoff date 01.01.2015 and further, their names also do 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 does not arise. 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 was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. E-192/4, Jailorwala Bagh, regarding which he is claiming

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allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

39. 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 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

40. 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 along with his family was not living on the cutoff date 01.01.2015 in Jhuggi No. E-192/4 regarding which he is claiming allotment from DDA because he had purchased the said Jhuggi No. E-192/4 in the year 2018 and furthermore the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. E-192/4, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the 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 survey conducted 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. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from

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DDA by hook or crook. Thus the documents, Annexure-A to Annexure-F, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her 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.

41. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-18/0020.G/ dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

42. 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 11.07.20232passed by Hon'ble High Court of Delhi in WP(C) No. 6728/20232and C.M. Appeal 25594/20232titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

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

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 17 of 2024

Date of Institution: 03.05.2023

Date of Order: 09.05.2024

Present: Appellant/ Claimant Chandrika Prasad S/o Kalu 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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. F-137, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. F-137 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination

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Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-221/25.G/ dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 17 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 19.03.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-F, 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. Dilshad Ahemad, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. F-137 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. F-137 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Chandrika Prasad has been recorded before us

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on 19.03.2024 wherein he has stated that he is married with Sumitra and having three sons; Nitesh, Aman & Arun and four daughters; Nisha, Neha, Neetu & Neelu. All the children except Nisha & Neha are unmarried. Nisha is married with Pradip and Neha is married with Praduman and they are living in their respective matrimonial homes in Gorakhpur, Uttar Pradesh.

9. The Appellant/Claimant has stated that he is having a double storey Jhuggi bearing No. F-137 and it comprises of one room on each floor and a joint staircase with the adjoining Jhuggi has been constructed and it has been used by both the Jhuggi owners including the present Appellant/Claimant for going to the upper floor. The Appellant/Claimant has stated that the first floor has been rented out by him to some person belonging to Bihar, but he does not remember his name. The Appellant/Claimant has also stated that he along with his wife Sumitra and all the five unmarried children, is living on the ground floor of the Jhuggi No. F-137. The Appellant/Claimant has claimed allotment from DDA against the entire double storey Jhuggi No. F-137 but his claim has been rejected by the Eligibility Determination Committee on the ground that he was found to be living on the upper floor and further his Voter ID Card could not be verified in spite of the fact that he is having requisite documents as per the policy guidelines issued by DDA and further he is living on the ground floor but has claimed allotment against the said double storey Jhuggi and accordingly aggrieved by the same, he has filed the present Appeal No. 17 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-F, in support of his claim and prayed that DDA be directed to make allotment in his favour.

10. DDA has furnished survey records along with one video clip of Jhuggi No. F-137. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. F-137 on 14.03.2020 on the ground floor of the said Jhuggi and his photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

11. DDA has furnished survey record along with one video clip pertaining to the Jhuggi No. F-

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137. The video was played before the Appellant/Claimant when his statement was recorded before us on 19.03.2024 wherein he has stated that the video clip pertains to the Jhuggi No. F-137 in which Jhuggi is clearly to be a single storey structure and further, the Appellant/Claimant is seen and getting the survey conducted and his room & kitchen are also seen and further, he is also seen holding a slate in his hand on which "F-137 CHANDRIKA PRASAD G+1" is clearly seen to have been written.

12. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the double storey Jhuggi No. F-137 especially when he is also seen holding a slate in his hand on which "F-137 CHANDRIKA PRASAD G+1" is clearly seen to have been written thereby denoting that the said Jhuggi is a double storey structure. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. F-137 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is living on the ground floor of the said double storey Jhuggi No. F-137 whereas the first floor is rented out but the fact remains that the Appellant/Claimant has claimed allotment against the said double storey Jhuggi and further the ground floor is used by him for residential purposes.

13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. F-137 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant was & is still using the said double storey Jhuggi No. F-137 for residential purposes.

14. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi No. F-137 as per the policy guidelines issued by DDA.

15. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-F, in support of his

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claim and prayed that DDA be directed to make allotment in his favour.

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a 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. 350-221/25.G/ dated 01.07.2023.

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 33years 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

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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."

18. It is mandated that there is verification in terms of biometric authentication via Aadhar

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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) - REQUIREMNETS OF DOCUMENTS

19. 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.

20. 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 33years 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 - REQUIREMNETS OF DOCUMENTS

21. 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

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

22. Thus 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.

23. 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 33years 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

24. 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.

25. 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 27.10.2013 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.

26. 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".

27. 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 17.08.2033thereby 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 17.08.2038was 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 19.07.2033thereby 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 19.07.2038was 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*

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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 **C**ards, however, they have not been issued the same by the **C**ompetent **A**uthority. 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

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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 Ors[2] 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

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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.

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

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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 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 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."

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28. 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. 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.

29. 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.

30. 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

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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.

31. 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.

32. 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

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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.

33. 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

34. 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. F-137 as per the policy guidelines issued by DDA.

35. The Appellant/Claimant has tendered his Voter ID Card No. WHC 3665627 (Annexure-A), Aadhar Card (Annexure-B) & PAN Card (Annexure-C) and undated Application (Annexure-F) in support of his claim.

36. It is pointed out that the Appellant/Claimant has tendered his Voter ID Card bearing number WHC 3665627 (Annexure-A) and it has been issued on 24.08.2023, much after the cut off date of 01.01.2015 and accordingly, the question of his name arising in any of the

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Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. It is not out of context to point out that the Appellant/Claimant has alleged that he along with his wife Sumitra and children was living in the Jhuggi No. F-137 but the Voter ID Card of Sumitra as well as Aadhar Cards of Sumitra as well as other children have not been placed on file to corroborate that the Appellant/Claimant was living along with his family in the Jhuggi No. F-137 regarding which he is claiming allotment from DDA. Furthermore, the Appellant/Claimant has placed on file an undated Application (Annexure-F) made by him for issuance of Voter ID Card. In this context, it is pointed out that this undated Application (Annexure-F) does not help the Appellant/Claimant because the policy/guidelines issued by DDA mandate that the dweller should possess a Voter ID Card on the cut off date of 01.01.2015. But in this case, the Voter ID Card (Annexure-A) has been issued on 24.08.2023, much after the cut off date of 01.01.2015. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a valid Voter ID Card on the cut off date of 01.01.2015 issued on the address of the Jhuggi No. F-137, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further, his name also does not appear in the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant is not entitled for claiming alternate allotment from DDA.

37. The Appellant/Claimant has also tendered the Electricity Bill (Annexure-D), Census Receipt No. 127 dated 06.06.2010 (Annexure-E).

38. It is pointed out that the Electricity Bill (Annexure-D) shows that the Appellant/Claimant has taken the electricity connection on 09.07.2012 on the address of the ground floor of the Jhuggi No. F-137, Jailorwala Bagh. Further, the Census Receipt No. 127 dated 06.06.2010 (Annexure-E) is not relevant because the address is not mentioned on it. 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 was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. F-137, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey,

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therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

39. 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 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

40. 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 present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. F-137, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. 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 survey conducted 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. 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-F, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her 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.

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41. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-221/25.G/ dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 92 of 2024

Date of Institution: 12.07.2023

Date of Order: 10.05.2024

Present: Appellant/ Claimant Geeta W/o Monti

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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. A-106, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-106 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative

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allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-10/007.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 92 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 02.04.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-G, 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. Dilshad Ahemad, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's single storey Jhuggi bearing No. A-106 was found to exist but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. A-106 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Geeta has been recorded before us on 02.04.2023 wherein she has stated that she is married with Monti and having three

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children, Aradhna, Anamika & Vansh and out of whom Anamika & Vansh are unmarried whereas Aradhna is married with Vicky and having one child, Ananya and she is living in her matrimonial home in Panipat, Haryana.

9. The Appellant/Claimant has stated that she along with her husband Monti and both the unmarried children, Anamika & Vansh, is living in the double storey Jhuggi No. A-106 and it comprises of one room on each floor and an iron ladder is placed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that she has sought allotment from DDA against the said double storey Jhuggi No. A-106 but her claim has been rejected by the Eligibility Determination Committee on the ground that her Voter ID Card could not be verified and that she has sought allotment against upper floor in spite of the fact that she is having all the requisite documents and further she has claimed allotment from DDA against the double storey Jhuggi and accordingly aggrieved by the same she has filed the present Appeal No. 92 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-G, in support of her claim and prayed that DDA be directed to make allotment in her favour.

11. DDA has furnished survey records along with one video clip of Jhuggi No. A-106. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. A-106 on 17.03.2020 on the ground floor of the said Jhuggi and her photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

12. DDA has furnished the survey records along with one video clip of Jhuggi No. A-106. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 02.04.2024 wherein she has stated the video clip pertains to the Jhuggi No. A-106 in which the Jhuggi No. A-106 is clearly seen to be a double storey structure from outside and further, the Appellant/Claimant is seen and getting the survey conducted and her room & kitchen are seen and further, she is also seen holding a slate in her hand on which "A-106 GEETA G+1" is seen to have been written.

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13. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the double storey Jhuggi No. A-106. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. A-106 is in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the same for residential purposes.

14. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-106 is in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes.

15. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the single storey Jhuggi No. A-106 as per the policy guidelines issued by DDA.

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

17. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not

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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. 350-10/007.G dated 01.07.2023.

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 99years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
> 10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
> 11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

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As envisaged in para above, the 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."

19. 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) - REQUIREMNETS OF DOCUMENTS

20. 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

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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.

21. 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 99years 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 - REQUIREMNETS OF DOCUMENTS

22. 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."

23. 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.

24. 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 99years 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

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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

25. 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.

26. 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

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whereas 06 appeals were allowed.

27. 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".

28. 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)

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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 19.07.2099was 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.*

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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 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*

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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 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 Ors[2] 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*

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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 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

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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 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

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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."

29. 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. 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.

30. 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

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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.

31. 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.

32. 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

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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.

33. 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.

34. 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

35. In the light of our discussion above, we shall now appraise the material placed on file by to

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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. A-106 as per the policy guidelines issued by DDA.

36. The Appellant/Claimant has tendered her Voter ID Card No. WHC 3569878 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C).

37. It is pointed out that the Voter ID Card No. WHC 3569878 (Annexure-A) of the Appellant/Claimant has been issued on 09.12.2021, much after the cutoff date 01.01.2015 and accordingly the question of her name appearing in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-106 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

38. The Appellant/Claimant has tendered Aadhar Card (Annexure-D) & PAN Card (Annexure-E) of her husband Monti as well as the Passbook of SBI (Annexure-F) and the Electricity Bill (Annexure-G).

39. It is pointed out that the Appellant/Claimant has tendered Aadhar Card (Annexure-D) & PAN Card (Annexure-E) of her husband Monti but she has not tendered his Voter ID Card to show that he was having a valid Voter ID Card issued on the address of the Jhuggi No. A-106 regarding which she is claiming allotment from DDA and further, no Voter List has been placed on file to show that her husband Monti had used his Voter ID Card to cast Vote in any of the election and more particularly in the years from 2012 to 2015. Further, the Passbook of SBI (Annexure-F) shows that the Appellant/Claimant had opened the account on 14.09.2021, much after the cutoff date 01.01.2015. The Electricity Bill (Annexure-G) also shows that the Appellant/Claimant had taken electricity connection on

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18.03.2009. 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 her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-106 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

40. 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 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

41. 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 present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-106 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. 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 survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat &

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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-G, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her 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.

42. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-10/007.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

43. 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 11.07.20232passed by Hon'ble High Court of Delhi in WP(C) No. 6728/20232and C.M. Appeal 25594/20232titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 129 of 2024

Date of Institution: 14.07.2023

Date of Order: 10.05.2024

Present: Appellant/ Claimant Archna Kumari W/o Ranvijay Kumar

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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. H-8, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. H-8 was found to exist but she had failed to submit requisite documents as per

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the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-201/350/201/74.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 129 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 08.04.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-G, 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. Dilshad Ahemad, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's single storey Jhuggi bearing No. H-8 was found to exist but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. H-8 as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant Archana Kumari has been recorded before us on 08.04.2024 wherein she has stated that she is married with Ran Vijay Kumar and having two children; Mayank & Riya.

9. The Appellant/Claimant has stated that previously she along with her family was living on rent in Azadpur Colony, Wazirpur, Delhi. But about four years ago, she had purchased Jhuggi No. H-8, Jailorwala Bagh, Ashok Vihar and started living there along with her family. It is also pointed out that the Appellant/Claimant has not tendered the Sale Deed or any other document under which she had allegedly purchased the Jhuggi No. H-8, Jailorwala Bagh about four years ago. But the fact remains that the Appellant/Claimant has specifically stated that she had purchased the Jhuggi No. H-8 about four years ago.

10. The Appellant/Claimant has stated that the Jhuggi No. H-8 is a double storey structure and it comprises of one room on each floor and a pucca staircase has been constructed in the gali and it is used for going to the upper floor. The Appellant/Claimant has stated that she has sought allotment from DDA against the said double storey Jhuggi No. H-8, Jailorwala Bagh, but her claim was rejected by Eligibility Determination Committee on the ground that her Voter ID Card could not be verified and that she has sought allotment against upper floor in spite of the fact that she is having all the requisite documents and further she has claimed allotment from DDA against the double storey Jhuggi and accordingly, aggrieved by the same, she has filed the present Appeal No. 129 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-G, in support of her claim and prayed that DDA be directed to make allotment in her favour.

11. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that she had purchased the Jhuggi No. H-8, Jailorwala Bagh, Ashok Vihar about four years ago thereby showing that she was not living in the said Jhuggi on the cut off date of 01.01.2015 and accordingly, she does not fulfill the eligibility criteria as per the policy/guidelines issued by DDA.

12. DDA has furnished survey records along with one video clip of Jhuggi No. H-8. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. H-8 on 12.03.2020 on the ground floor of the said Jhuggi and her photograph is also attached in

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token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

13. DDA has furnished survey record along with one video clip pertaining to the Jhuggi No. H-8. The video was played before the Appellant/Claimant when her statement was recorded before us on 08.04.2024 wherein she has stated that the video clip pertains to the Jhuggi No. H-8 in which the Appellant/Claimant is seen and getting the survey conducted on the ground floor of the Jhuggi No. H-8 and her room & kitchen are also seen and further, she is also seen holding a slate in her hand on which "H-8 ARCHANA KUMARI (NOT IN LIST) G+1" is clearly seen to have been written. However, the construction of the first floor and the staircase is not seen but in the video clip she is seen holding a slate in her hand on which "H-8 ARCHANA KUMARI (NOT IN LIST) G+1" is seen to have been written thereby showing that it was a double storey structure. Thus, the fact remains that the Jhuggi No. H-8 is seen to be a pucca structure and being used by the Appellant/Claimant for residential purposes.

14. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the double storey Jhuggi No. H-8. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. H-8 is in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the same for residential purposes.

15. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. H-8 is in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes.

16. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012,

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2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the single storey Jhuggi No. H-8 as per the policy guidelines issued by DDA.

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

18. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-201/350/201/74.G dated 01.07.2023.

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

> **"Part-B**
>
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 99years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.

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

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

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

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- 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."

20. 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) - REQUIREMNETS OF DOCUMENTS

21. 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.

22. 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 99years 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.

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FIRST FLOOR - REQUIREMNETS OF DOCUMENTS

23. 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."

24. 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.

25. 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 99years 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

26. 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

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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.

27. 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.

28. 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".

29. 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

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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 17.08.2099thereby 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 17.08.2018was 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 19.07.2018thereby 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 19.07.2018was 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.

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(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. 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.*

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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.

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

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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 Ors[2] 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*

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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.

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

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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 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 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

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disposed of.

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

30. 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. 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.

31. 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.

32. 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

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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.

33. 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.

34. 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

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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.

35. 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 ~~9~~ 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

36. 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. H-8 as per the policy guidelines issued by DDA.

37. The Appellant/Claimant has tendered her Voter ID Card No. WHC 3581584 (Annexure-A), Aadhar Card (Annexure-B) & PAN Card (Annexure-C) in support of her claim.

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38. It is pointed out that the Appellant/Claimant has tendered her Voter ID Card bearing number WHC 3581584 (Annexure-A) and it has been issued on 09.04.2021, much after the cut off date of 01.01.2015 and accordingly, the question of her name appearing in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Furthermore, as already pointed out, the Appellant/Claimant had allegedly purchased the Jhuggi No. H-8 in the year 2016 and accordingly, she was not living on the cut off date of 01.01.2015 in the Jhuggi No. H-8, Jailorwala Bagh, regarding which she is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. H-8 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

39. The Appellant/Claimant has also tendered the Voter ID Card No. WHC 3581022 (Annexure-D) & Aadhar Card (Annexure-E) of her husband Ran Vijay, Passbook of SBI (Annexure-F) and Electricity Bill (Annexure-G).

40. It is pointed out that the Voter ID Card No. WHC 3581022 (Annexure-D) of her husband Ran Vijay has been issued on 09.04.2021, much after the cut off date of 01.01.2015, and accordingly, the question of his name arising in any of the Voter Lists of the years from 2012 to 2015 does not arise. Furthermore, the Aadhar Card (Annexure-E) of Ran Vijay has been issued on 06.09.2020, much after the cut off date of 01.01.2015. The Passbook of SBI (Annexure-F) shows that the Appellant/Claimant has opened the account on 03.09.2013, but it is pointed out that the account has been opened not on the address of the Jhuggi No. H-8 regarding which she is claiming alternative allotment from DDA but it is on the address of the Jhuggi No. N-28-063, Azad Colony, Wazirpur where she was living on rent before she had allegedly purchased the Jhuggi No. H-8 in Jailorwala Bagh, Ashok Vihar. Hence, this document is not relevant. The Electricity Bill (Annexure-G) shows that the electricity connection has been taken by the Appellant/Claimant on 21.11.2020, much after the cut off date of 01.01.2015. 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

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interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant had allegedly purchased the Jhuggi No. H-8 in the year 2016 and accordingly, she was not living on the cut off date of 01.01.2015 in the Jhuggi No. H-8, Jailorwala Bagh, regarding which she is claiming allotment from DDA and further the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. H-8 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

41. 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 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

42. 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 had allegedly purchased the Jhuggi No. H-8 in the year 2016 and accordingly, she was not living on the cut off date of 01.01.2015 in the Jhuggi No. H-8, Jailorwala Bagh, regarding which she is claiming allotment from DDA and further the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. H-8 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and

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succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her 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-G, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her 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.

43. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-201/350/201/74.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

44. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.20232passed by Hon'ble High Court of Delhi in WP(C) No. 6728/20232and C.M. Appeal 25594/20232titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 127 of 2024

Date of Institution: 14.07.2023

Date of Order: 13.05.2024

Present: Appellant/ Claimant Sayra Bano W/o Ahmad Ali

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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. H-21, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. H-21 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative

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allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-81/77.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 127 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 29.04.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-G, 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 single storey Jhuggi bearing No. H-21 was found to exist but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. H-21 as per the policy guidelines issued by DDA.

8. The statement of the Appellant / Claimant Sayra Bano has been recorded before us on 29.04.2024 wherein she has stated that she is married with Ahmad Ali and having four children; Taufik, Tamsir, Danish & Md. Fazil. All the children are unmarried.

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9. The Appellant/Claimant has stated that she is having a double storey Jhuggi No. H-21, Jailorwala Bagh, Ashok Bihar and it comprises of one room on the ground floor and one room on the first floor and a pucca staircase has been constructed outside in the gali and it is used for going to the upper floor and further, the room on the ground floor is used as kitchen whereas the room on the first floor is used for residential purposes. The Appellant/Claimant has sought allotment from DDA against the said double storey Jhuggi No. H-21 but her claim has been rejected by the Eligibility Determination Committee on the ground that her Voter ID Card could not be verified and that she has sought allotment against upper floor in spite of the fact that she is having all the requisite documents and further she has claimed allotment from DDA against the double storey Jhuggi and accordingly, aggrieved by the same, she has filed the present Appeal No. 127 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-G, in support of her claim and prayed that DDA be directed to make allotment in her favour.

10. DDA has furnished survey records along with one video clip of Jhuggi No. H-21. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. H-21 on 21.03.2020 on the ground floor of the said Jhuggi and her photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

11. DDA has furnished survey record along with one video clip pertaining to the Jhuggi No. H-21. The video was played before the Appellant/Claimant when her statement was recorded before us on 29.04.2024 wherein she has stated that the video clip pertains to the Jhuggi No. H-21 in which the Jhuggi is clearly seen from outside to be a double storey pucca structure and further, the Appellant/Claimant is seen and getting the survey conducted and her kitchen on the ground floor is seen but there is no video of the room on the first floor. Further, the Appellant/Claimant is seen holding a slate in her hand on which "H-21 SAYRA BANO G+1" is clearly seen to have been written.

12. There is nothing to disbelieve the statement of the Appellant/Claimant on the material

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aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the double storey Jhuggi No. H-21. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. H-21 is in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the same for residential purposes.

13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. H-21 is in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes.

14. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the single storey Jhuggi No. H-21 as per the policy guidelines issued by DDA.

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

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-

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2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-81/77.G dated 01.07.2023.

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 99years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
> 10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
> 11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

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As envisaged in para above, the 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."

18. 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) - REQUIREMNETS OF DOCUMENTS

19. 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

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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.

20. 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 99years 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 - REQUIREMNETS OF DOCUMENTS

21. 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."

22. 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.

23. 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 99years 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

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date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

24. 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.

25. 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.

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26. 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".

27. 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

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(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 19.07.2099was 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*

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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 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*

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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 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 Ors[2] 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,*

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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 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

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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 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

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(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."

28. 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. 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.

29. 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

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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.

30. 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.

31. 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

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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.

32. 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.

33. 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

34. In the light of our discussion above, we shall now appraise the material placed on file by to

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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. H-21 as per the policy guidelines issued by DDA.

35. The Appellant/Claimant has tendered her Voter ID Card No. WHC 2214053 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of her claim.

36. It is pointed out that the Appellant/Claimant has tendered her Voter ID Card bearing number WHC 2214053 (Annexure-A) and it has been issued on 16.07.2016, much after the cut off date of 01.01.2015 and accordingly the question of her name appearing in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. H-21 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

37. The Appellant/Claimant has also tendered the Voter ID Card No. WHC 2214045 (Annexure-D) & Aadhar Card (Annexure-E) of her husband Ahmad Ali, Electricity Bill (Annexure-F) and Ration Card No. 077005264882 (Annexure-G).

38. It is pointed out that the Appellant/Claimant has tendered the Voter ID Card of her husband Ahmad Ali bearing No. WHC 2214045 (Annexure-D) and it has been issued on 16.07.2016, much after the cut off date of 01.01.2015 and accordingly, the question of his name appearing in any of the Voter Lists of the year 2012 to 2015 does not arise. This shows that neither the Appellant/Claimant nor her husband Ahmad Ali was having a valid Voter ID Card on the cut off date of 01.01.2015 issued on the address of the Jhuggi No. H-21, regarding which the Appellant/Claimant is claiming allotment from DDA and further their names also do not appear in the voter list of the year's 2012, 2013, 2014 and 2015

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(prior to 01-01-2015) & also in the year of survey. The Electricity Bill (Annexure-F) shows that the electricity connection has been taken by the Appellant/Claimant on 25.08.2015, much after the cut off date of 01.01.2015. Further, the Ration Card No. 077005264882 (Annexure-G) has been issued in favour of the Appellant/Claimant and the name of her three sons are also mentioned therein and it has been issued on 14.08.2020, much after the cut off date of 01.01.2015. 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 her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. H-21 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

39. 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 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

40. 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 present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. H-21 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the

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DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her 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-G, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her 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.

41. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-81/77.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

42. 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 11.07.20232passed by Hon'ble High Court of Delhi in WP(C) No. 6728/20232and C.M. Appeal 25594/20232titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 201 of 2024

Date of Institution: 19.07.2023

Date of Order: 14.05.2024

Present: Appellant/ Claimant Munna Bhardwaj S/o Birbal

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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-144, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey records, the Appellant/ Claimant's Jhuggi bearing No. A-144 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has

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rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-64/32.G/ dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 201 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 19.04.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-F, 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-144 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. A-144 as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant Munna Bhardwaj has been recorded before us on 19.04.2024 wherein he has stated that his parents, Birbal & Sundra, are having four sons; Rajesh, Rakesh, Bharat & Munna and one daughter; Shila. All the children are married. Both the parents, Birbal & Sundra, are living in their native village in District Azamgarh, Uttar Pradesh. Shila is married with Rajesh and she is living in her matrimonial home in Azamgarh, Uttar Pradesh. Rajesh, Rakesh & Bharat are also married and with their respective families they are living in their native village in District Azamgarh, Uttar Pradesh. Munna (Appellant/Claimant) is married with Rita and having three children; Ujala, Ashu & Kartik.

9. The Appellant/Claimant has stated that he is having a pucca single storey Jhuggi bearing No. A-144 and it comprises of one room and having roof made with tin and he has been living along with his family in the said Jhuggi No. A-144. The Appellant/Claimant has sought allotment from DDA against the said single storey Jhuggi No. A-144 but his claim has been rejected by the Eligibility Determination Committee on the ground that his Voter ID Card could not be verified and further he has claimed allotment against the upper floor in spite of the fact that he was having all the requisite documents and further he has claimed allotment from DDA against the single storey Jhuggi No. A-144 and accordingly, aggrieved by the same, he has filed the present Appeal No. 201 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-F, in support of his claim and prayed that DDA be directed to make allotment in his favour.

10. DDA has furnished survey records along with one video clip of Jhuggi No. A-144. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. A-144 on 17.03.2020 on the ground floor of the said Jhuggi and his photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

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11. DDA has furnished survey record along with one video clip pertaining to the Jhuggi No. A-144. The video was played before the Appellant/Claimant when his statement was recorded before us on 19.04.2024 wherein he has stated that the video clip pertains to the Jhuggi No. A-144 in which the Jhuggi is clearly to be a pucca single storey Jhuggi having roof made with tin and his room & kitchen are also seen and further, the Appellant/Claimant is seen and getting the survey conducted and further, he is also seen holding a slate in his hand on which "A-144 MUNNA BHARDWAJ G.F" is clearly seen to have been written.

12. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the single storey Jhuggi No. A-144. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the single storey Jhuggi No. A-144 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is living in the said single storey Jhuggi No A-144 and using the same for residential purposes.

13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-144 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant was & is still using the said double storey Jhuggi No. A-144 for residential purposes.

14. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi No. A-144 as per the policy guidelines issued by DDA.

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

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

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate 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:

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

17. 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) - REQUIREMNETS OF DOCUMENTS

18. 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

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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.

19. 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 - REQUIREMNETS OF DOCUMENTS

20. 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."

21. 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.

22. 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.

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DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

23. 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.

24. 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 Jailorwala Bagh, 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 Jailorwala Bagh, 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.

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25. 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".

26. 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,

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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.*
>
> *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.*

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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 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*

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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 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

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the Division Bench of this Court in the judgment of ***Udal v. Delhi Urban Shelter Improvement Board and Ors[2] 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 aforesaid documents are issued before the cut-off date, hence, the petitioners are

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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 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:

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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."

27. 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. 213(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.

28. 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.

29. 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.

30. 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

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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.

31. 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.

32. 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

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(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

33. 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 said single storey Jhuggi No. A-144 as per the policy guidelines issued by DDA.

34. The Appellant/Claimant has tendered his Voter ID Card No. WHC 2300283 (Annexure-A), Aadhar Card (Annexure-B) and Pan Card (Annexure-C) in support of his claim.

35. It is pointed out that the Appellant/Claimant has tendered his Voter ID Card bearing number WHC 2300283 (Annexure-A) and it has been issued on 22.10.2018, much after the cutoff date of 01.01.2015 and accordingly, the question of his name arising in any of the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-144 regarding which he has been claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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36. The Appellant/Claimant has also tendered the Electricity Bill (Annexure-D), Ration Card No. 077004380638 (Annexure-E) and Passbook of Indian Overseas Bank (Annexure-F) in support of his claim.

37. It is pointed out that the Appellant/Claimant has tendered the Electricity Bill (Annexure-D) and it shows that the Appellant/Claimant has taken the electricity connection on the address of the Jhuggi No. A-144 on 12.08.2021, much after the cutoff date of 01.01.2015. Furthermore, the Ration Card No. 077004380638 (Annexure-E) has been issued in favour of the Appellant/Claimant and the name of his children Ujala & Ashu are mentioned and it has been issued on 07.089.2014. The Passbook of Indian Overseas Bank (Annexure-F) shows that the Appellant/Claimant had opened the account on 29.08.2014. 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 was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-144 regarding which he has been claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

38. 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 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

39. 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 present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-144 regarding which he has been claiming

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allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. 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 survey conducted 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. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her 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-F, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her 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.

40. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-64/32.G/ dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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(Ranbir Singh)
Jt. Secretary (Retd.) GOI
MEMBER

14/5/2024

(Satish Ahlawat)
Addl. District & Sessions Judge (Retd.)
CHAIRMAN

14/5/2024

(Rachna Tiwary
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 187 of 2024

Date of Institution: 18.07.2023

Date of Order: 15.05.2024

Present: Appellant/ Claimant Jitender S/o Kallan

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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-181, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-181 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the

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Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-Fresh/168/ dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 187 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam Meena, 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-F, 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-181 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. A-181 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Jitender has been recorded before us on 18.04.2024 wherein he has stated that his parents, Kallan & Lilawati, are having four sons; Rajinder, Birender, Santosh & Jitender & three daughters; Rita, Sangita & Manisha. All the

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children are married. Kallan & Lilawati are living in their native village in District Azamgarh, Uttar Pradesh. Rita is married with Sri Ram and Manish is married with Raju and they are living in their respective matrimonial homes in Azamgarh, Uttar Pradesh. Sangita is married with Sant Vijay and she is living in her matrimonial home in Chandigarh. Rajinder is married with Sarita and having four children. Birender is married with Anjali and having one child. Santosh is married with Anshu but they are not having any issues. Jitender (Appellant/Claimant) is married with Sharmila and having two children, Jyoti & Kartik.

9. The Appellant/Claimant has stated that his family is having three separate Jhuggis bearing Jhuggi No. A-9, Jhuggi No. A-10 and Jhuggi No. A-181.

Jhuggi No. A-9

10. The Appellant/Claimant has stated that his brother Rajinder along with his wife Sarita and all the four children and also the family of his brother Birender is living in the Jhuggi No. A-9, which is a double storey structure and a bamboo ladder is placed outside in the gali and regarding that DDA has made alternative allotment in favour of Rajinder. These facts are not disputed by DDA.

Jhuggi No. A-10

11. The Appellant/Claimant has stated that his brother Santosh along with his wife Anshu is living in the single storey Jhuggi No. A-10 and regarding that Santosh has sought allotment from DDA but his claim has been rejected by Eligibility Determination Committee but the Appellant/Claimant does not know whether Santosh has filed any Appeal before the Appellate Authority or not.

Jhuggi No. A-181

12. The Appellant/Claimant has stated that he along with his wife Sharmila and both the children; Jyoti & Kartik, is living in the double storey Jhuggi bearing No. A-181 and it comprises of one room on each floor and an iron ladder is placed outside in the gali and it is used for going to the upper floor. The Appellant/Claimant has sought allotment from DDA against the said double storey Jhuggi No. A-181 but his claim has been rejected by the Eligibility Determination Committee on the ground that his Voter ID Card could not be verified and further he was found to be living on the upper floor in spite of the fact that he is having requisite documents as per the policy guidelines issued by DDA and further he has

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claimed allotment against the said double storey Jhuggi No. A-181 and accordingly, aggrieved by the same, he has filed the present Appeal No. 187 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-F, in support of his claim and prayed that DDA be directed to make allotment in his favour.

13. DDA has furnished survey records along with two video clips of Jhuggi No. A-9 & Jhuggi No. A-10. As per survey records the Appellant/Claimant had not got the survey conducted in respect of Jhuggi No. A-181 regarding which he has been claiming allotment from DDA.

14. DDA has furnished survey record along with two video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 18.04.2024 wherein he has stated that the first video clip pertains to the Jhuggi No. A-9 in which the Jhuggi No. A-9 is clearly to be a double storey structure from outside and an iron ladder is also seen going from the ground floor to the upper floor and further, his brother Rajinder is seen and getting the survey conducted of the Jhuggi No. A-9 and further, his room & kitchen are also seen and further, he is also seen holding a slate in his hand on which "A-9 RAJENDRA G+FF" is clearly seen to have been written. The second video clip pertains to the Jhuggi No. A-10 which is clearly seen to be a single storey Jhuggi from outside and further, his brother Rajinder is seen and getting the survey conducted on behalf of his another brother Santosh and the room & kitchen of Santosh is also seen and further, Rajinder is seen holding a slate in his hand on which "A-10 SANTOSH G" is clearly seen to have been written. Further, no video clip of the double storey Jhuggi No. A-181 of the Appellant/Claimant is available, and further, the Appellant/Claimant has admitted that he has not got the survey conducted because at the time of survey, he had gone out to work. It is pointed out that DDA has conducted extensive survey in Jailorwala Bagh, Ashok Vihar and the whole exercise had consumed several days and accordingly, absence of the Appellant/Claimant at the time of survey and his having made no attempt to get the survey conducted creates doubt & suspicion.

15. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case about the existence of the double storey Jhuggi No. A-181 especially when DDA has not disputed about the existence of his Jhuggi but his claim was rejected on the ground that he was not having requisite documents as per the policy guidelines issued by

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DDA. Thus the statement of the Appellant/Claimant has duly proved that the Jhuggi No. A-181 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is living in the said Jhuggi No. A-181 and it is used by him for residential purposes.

16. Accordingly, we have no hesitation in holding that the Jhuggi No. A-181 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant was & is still using the said Jhuggi No. A-181 for residential purposes.

17. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi No. A-181 as per the policy guidelines issued by DDA.

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

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

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350-Fresh/168/ dated 01.07.2023.

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

"Part-B

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

1. The JJ dwellers must be a citizen of India and not less than 33years 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.

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

21. 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) - REQUIREMNETS OF DOCUMENTS

22. 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.

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23. 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 33years 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 - REQUIREMNETS OF DOCUMENTS

24. 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."

25. 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.

26. 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 33years 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

27. 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

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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.

28. 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.

29. 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**

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Development Authority" in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022".

30. 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 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

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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 19.07.2033was 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. 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.-*

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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

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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 Ors[2] 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*

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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 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

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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 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.

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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."

31. 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. 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.

32. 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.

33. 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

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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.

34. 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.

35. Therefore, the facts of the present appeal are squarely covered by the facts of the

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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.

36. 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

37. 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-181 as per the policy guidelines issued by DDA.

38. The Appellant/Claimant has tendered his Voter ID Card No. WHC 3672144 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of his claim.

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39. It is pointed out that the Appellant/Claimant has tendered his Voter ID Card bearing number WHC 3672144 (Annexure-A) and it has been issued on 15.09.2023, much after the cut off date of 01.01.2015 and accordingly, the question of his name arising in any of the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a valid Voter ID Card on the cut off date of 01.01.2015 issued on the address of the Jhuggi No. A-181, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further, his name also does not appear in the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant is not entitled for claiming alternate allotment from DDA.

40. The Appellant/Claimant has also tendered the Aadhar Card (Annexure-D) & PAN Card (Annexure-E) of his wife Sharmila as well as Electricity Bill (Annexure-F) in support of his claim.

41. It is pointed out that the Appellant/Claimant has tendered the Aadhar Card (Annexure-D) & Pan Card (Annexure-E) of his wife Sharmila but he has not tendered her Voter ID Card to show that she was having a valid Voter ID Card on the cut off date of 01.01.2015 issued on the address of the Jhuggi No. A-181 regarding which the Appellant/Claimant is claiming allotment from DDA. Further, the date of issuance is also not mentioned on the Aadhar Card (Annexure-D) of his wife Sharmila. Moreover, the Electricity Bill (Annexure-F) shows that the Appellant/Claimant has taken the electricity connection on 20.04.2021, much after the cut off date of 01.01.2015. 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 was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. A-181, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

42. 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

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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 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

43. 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 present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. A-181, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. 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 survey conducted 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. 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-F, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her 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.

44. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-Fresh/168/ dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being

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devoid of any merit.

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

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

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

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 73 of 2024

Date of Institution: 12.07.2023

Date of Order: 15.05.2024

Present: Appellant/ Claimant Reeta W/o Ram Vilas

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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. F-387, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. F-387 was found to exist but she had failed to submit requisite documents as per the policy

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guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-201/350/201/84.G/ dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 73 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Dilshad Ahemad, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 28.03.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Dilshad Ahemad, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. F-387 was found to exist but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. F-387 as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant Reeta has been recorded before us on 28.03.2024 wherein she has stated that she was married with Ram Vailash and having two sons; Ansh & Ramanand, and two daughters; Anshika & Annu. All the children are unmarried.

9. The Appellant/Claimant has stated that she is having a single storey Jhuggi No. F-387, Jailorwala Bagh, Ashok Bihar and it comprises of one room and the roof was made with chappar. The Appellant/Claimant along with her husband Ram Vilash and all the four children; Ansh, Ramanand, Anshika & Annu is living in the Jhuggi No. F-387 and regarding that she has sought allotment from DDA but her claim has been rejected by the Eligibility Determination Committee on the ground that her Voter ID Card could not be verified and further she was found to be living on the upper floor in spite of the fact that she is having requisite documents as per the policy guidelines issued by DDA and further she has claimed allotment against single storey Jhuggi No. F-387 and accordingly, aggrieved by the same, she has filed the present Appeal No. 73 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of her claim and prayed that DDA be directed to make allotment in her favour.

10. DDA has furnished survey records along with one video clip of Jhuggi No. F-387. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. F-387 on 12.03.2020 on the ground floor of the said Jhuggi and her photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

11. DDA has furnished survey record along with one video clip pertaining to the Jhuggi No. F-387. The video was played before the Appellant/Claimant when her statement was recorded before us on 28.03.2024 wherein she has stated that the video clip pertains to the Jhuggi No. F-387 in which Jhuggi No. F-387 is clearly seen to be a single storey

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structure and having roof made with asbestos sheet and the Appellant/Claimant is seen and getting the survey conducted and her room & kitchen is also seen and further, she is also seen holding a slate in her hand on which "F-387 Reeta GF" is clearly seen to have been written.

12. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the single storey Jhuggi No. F-387 especially when in the video clip prepared by DDA the Jhuggi No. F-387 is clearly seen to be a single storey pucca structure from outside and further she is seen and getting the survey conducted on the ground floor and she is also seen holding a slate in their hands on which "F-387 Reeta GF" is clearly seen to have been written thereby denoting that the said Jhuggi is a single storey structure. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the single storey Jhuggi No. F-387 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and further the Appellant/Claimant is living in the said single storey Jhuggi No. F-387 and further the said Jhuggi No. F-387 is used by her for residential purposes.

13. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. F-387 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant was & is still using the said single storey Jhuggi No. F-387 for residential purposes.

14. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the single storey Jhuggi No. F-387 as per the policy guidelines issued by DDA.

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

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 33years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
> 10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.

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

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

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

17. 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) - REQUIREMNETS OF DOCUMENTS

18. 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

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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.

19. 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 33years 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 - REQUIREMNETS OF DOCUMENTS

20. 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."

21. 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.

22. 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 33years 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

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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

23. 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.

24. 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

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105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

25. 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".

26. 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

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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 19.07.2033was 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. 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 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*

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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 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

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the Division Bench of this Court in the judgment of ***Udal v. Delhi Urban Shelter Improvement Board and Ors[2] 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 aforesaid documents are issued before the cut-off date, hence, the petitioners are

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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 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:

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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."

27. 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. 213(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.

28. 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.

29. 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.

30. 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

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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.

31. 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.

32. 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

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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

33. 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. F-387 as per the policy guidelines issued by DDA.

34. The Appellant/Claimant has tendered her Voter ID Card No. WHC 3559331 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of her claim.

35. It is pointed out that the Appellant/Claimant has tendered her Voter ID Card bearing number WHC 3559331 (Annexure-A) and it has been issued on 24.05.2023, much after the cutoff date of 01.01.2015 and accordingly, the question of her name arising in any of the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. F-387, Jailorwala Bagh, regarding which she is claiming allotment from DDA and further, her name also does not appear in the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant is not entitled for claiming alternate allotment from DDA.

36. The Appellant/Claimant has also tendered the Voter ID Card No. JPF 0784736 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of her husband

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Ram Vailash, Letter dated 11.05.2023 (Annexure-J) of AERO- AC-17, Wazirpur, Voter List of the year 2005 (Annexure-K) and Voter List of the year 2007 (Annexure-L), Electricity Bill (Annexure-G), Passbook of Canara Bank (Annexure-H) and Ration Card No. 077004380624 (Annexure-I).

37. It is pointed out that the Voter ID Card No. JPF 0784736 (Annexure-D) of her husband Ram Vailash has been issued on 29.07.2003, much prior to the cutoff date of 01.01.2015. The Letter dated 11.05.2023 (Annexure-J) issued by AERO, AC-17 also shows that the Voter ID Card No. JPF 0784736 of Ram Vailash is a valid document as it has been duly verified as per the records of Election Commission. Further, his name also appears at Sl. No. 1587 in the Voter List of the year 2005 (Annexure-K) and at Sl. No. 1808 in the Voter List of the year 2007 (Annexure-L). Further, all these documents have been issued on the address of the Jhuggi No. F-387 regarding which the Appellant/Claimant has been claiming allotment from DDA. However, no Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey is tendered by the Appellant/Claimant to show that her husband Ram Vailash had used his Voter ID Card to cast vote in any of these years. It is pointed out the Electricity Bill (Annexure-G) shows that the electricity connection has been taken by her husband Ram Vailash on 01.02.2012. The Passbook of Canara Bank (Annexure-H) shows that the Appellant/Claimant has opened the account on 25.11.2022, much after the cutoff date of 01.01.2015. Furthermore, the Ration Card bearing No. 077004380624 (Annexure-I) has been issued in favour of the Appellant/Claimant on 07.09.2014 and the name of her husband Ram Vailash also appears therein. 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 her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. F-387, Jailorwala Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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38. 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 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

39. 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 present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. F-387, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. 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 survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her 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-L, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her 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.

40. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-

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201/350/201/84.G/ dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 199 of 2024

Date of Institution: 19.07.2023

Date of Order: 16.05.2024

Present: Appellant/ Claimant Pushpa Devi D/o Lal Mani W/o Mahender

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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. CN-387, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. CN-387 was found to exist but she had failed to submit requisite documents as

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per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-15/56.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 199 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 08.05.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. 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 double storey Jhuggi bearing No. CN-387 was found to exist but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. CN-387 as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant Pushpa Devi has been recorded before us on 08.05.2024 wherein she has stated that she is married with Mahender and having two children; Muskan & Ujala. Both the children are unmarried. Her in-laws Lalmani & Sheela, are living in their native village in District Azamgarh, Uttar Pradesh and have been frequently vising the Appellant/Claimant at Jailorwala Bagh.

9. The Appellant/Claimant has stated that she is having a single storey Jhuggi No. CN-387, Jailorwala Bagh, Ashok Vihar and it comprises of one room having roof made with asbestos sheet. The Appellant/Claimant along with her family is living in the said single storey Jhuggi No. CN-387 and regarding that the Appellant/Claimant has sought allotment from DDA but her claim has been rejected by Eligibility Determination Committee on the ground that her Voter Card not verified and also that she has claimed against the upper floor in spite of the fact that she is having all the requisite documents as per policy guidelines issued by DDA and further she is claiming allotment from DDA against the single storey Jhuggi No. CN-387 and accordingly aggrieved by the same, she has filed the present Appeal No. 199 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of her claim and prayed that DDA be directed to make allotment in her favour.

10. DDA has furnished survey records along with one video clip of Jhuggi No. CN-387. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. A-CN-387 on 18.03.2020 on the said Jhuggi and her photographs & that of her family is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

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11. DDA has furnished survey record along with one video clip pertaining to the Jhuggi No. CN-387. The video was played before the Appellant/Claimant when her statement was recorded before us on 08.05.2024 wherein she has stated that the video clip pertains to the Jhuggi No. CN-387 in which the Jhuggi is clearly seen from outside to be a single storey structure and having roof made with asbestos sheet and further the Appellant/Claimant is seen and getting the survey conducted and her room & kitchen are also seen. Further, she is also seen holding a slate in her hand on which "CN-387 PUSHPA DEVI G.F" is clearly seen to have been written.

12. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the single storey Jhuggi No. CN-387. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the single storey Jhuggi No. CN-387 is in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the same for residential purposes.

13. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. CN-387 is in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes.

14. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the single storey chappar type kuchcha Jhuggi No. CN-387 as per the policy guidelines issued by DDA.

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

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 99years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
> 10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.

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

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

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

17. 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) - REQUIREMNETS OF DOCUMENTS

18. 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

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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.

19. 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 99years 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 - REQUIREMNETS OF DOCUMENTS

20. 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."

21. 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.

22. 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 99years 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

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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

23. 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.

24. 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

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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.

25. 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".

26. 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 17.08.2099thereby 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

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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.*

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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 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*

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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.

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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 Ors[2] 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

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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 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

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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."

27. 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. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food

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and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

28. 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.

29. 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.

30. 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

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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/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.

31. 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.

32. 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

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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

33. 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 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 she is entitled to claim allotment against the single storey Jhuggi No. CN-387 as per the policy guidelines issued by DDA.

34. The Appellant/Claimant has tendered her Voter ID Card No. WHC 3660412 (Annexure-A) and Aadhar Card (Annexure-B) in support of her claim.

35. It is pointed out that the Appellant/Claimant has tendered her Voter ID Card bearing number WHC 3660412 (Annexure-A) and it has been issued on 14.05.2023, much after the cut off date of 01.01.2015 and accordingly the question of her name appearing in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No.CN-387, Jailorwala Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and

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accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

36. The Appellant/Claimant has also tendered the Voter ID Card No. WHC 2282886 (Annexure-C) & Aadhar Card of her husband Mahender, Voter ID Card No. JPF 0733162 (Annexure-E) & Aadhar Card (Annexure-F) of her father-in-law Lal Mani, Voter ID Card No. JPF 0874826 (Annexure-G) & Aadhar Card (Annexure-H) of her mother-in-law Sheela, Ration Card (Annexure-I) and Electricity Bill (Annexure-J).

37. It is pointed out that the Voter ID Card No. WHC 2282886 (Annexure-C) of Mahender has been issued on 09.04.2017 and accordingly, the question of his name arising in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. The material placed on file shows that neither the Appellant/Claimant nor her husband Mahender were having a valid Voter ID Card on the cut off date 01.01.2015 issued on the address of the Jhuggi No.CN-387, Jailorwala Bagh, regarding which she is claiming allotment from DDA.

38. Furthermore, the Voter ID Card No. JPF 0733162 (Annexure-E) of her father-in-law, Lal Mani, and Voter ID Card No. JPF 0874826 (Annexure-G) of her mother-in-law, Sheela, have been issued on 25.08.2002 & 13.11.2005 respectively but it is pointed out that none of these documents are material especially when the Appellant/Claimant has specifically stated that her in-laws are living in their native village in District Azamgarh, Uttar Pradesh and they have been frequently visiting the Appellant/Claimant's family at Jailorwala Bagh and this shows that they were not bona fide resident of Jailorwala Bagh.

39. It is pointed out that the Ration Card (Annexure-I) is bearing No. 07700421733 and it has been issued in favour of her mother-in-law, Sheela, and the name of the family members including her husband Mahender have been mentioned but that of the Appellant/Claimant is not mentioned. The Electricity Bill (Annexure-J) shows that the electricity connection has

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been taken by her father-in-law, Lal Mani on 15.02.2006. 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 her favour to claim allotment from DDA because as per our discussion above neither the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No.CN-387, Jailorwala Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

40. 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 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

41. 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 present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No.CN-387, Jailorwala Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. 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 survey conducted 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.

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The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her 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-J, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her 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.

42. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-15/56.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

43. 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 11.07.20232passed by Hon'ble High Court of Delhi in WP(C) No. 6728/20232and C.M. Appeal 25594/20232titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 16 of 2024

Date of Institution: 03.05.2023

Date of Order: 16.05.2024

Present: Appellant/ Claimant Sarvesh Kumar S/o Ram Jatan

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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. D-79, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-79 was found to exist but he had failed to submit requisite documents as per the policy

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guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-82/09.G/ dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 16 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 29.04.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. 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. D-79 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. D-79 as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant Sarvesh Kumar has been recorded before us on 29.04.2024 wherein he has stated that his parents, Ram Jatan & Shanti Devi, are having four sons; Rajesh, Rakesh, Sarvesh Kumar & Suraj and two daughters; Sita & Nirmala. Ram Jatan has expired in the year 2020. Shanti Devi is living in her native village in District Azamgarh, Uttar Pradesh. All the children except Suraj are married. Sita is married with Jitender and Nirmala is married with Satish and both of them are living in their respective matrimonial homes in District Azamgarh, Uttar Pradesh. Rakesh is married with Kusum and having three children and he is also living in his native village in District Azamgarh, Uttar Pradesh. Suraj is unmarried and he is living on rent in Azadpur, Delhi. Rajesh is married with Gita and having three children; Roshan, Sonam & Abhishek. Sarvesh (Appellant/Claimant) is married with Sapna and having three children; Ritik, Divyank & Aarav.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi bearing No. D-79, Jailorwala Bagh, Ashok Vihar and it comprises of two interconnected rooms on the ground floor and one room on the first floor and an iron ladder is placed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that his brother Rajesh along with his wife Gita and all the three children is living in the interconnected rooms on the ground floor of the Jhuggi No. D-79 and regarding that Rajesh had sought allotment from DDA but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same, he has filed Appeal before the Appellate Authority but he does not know its number and other details.

11. The Appellant/Claimant has stated that he along with his wife Sapna and all the three children; Ritik, Divyank & Aarav, is living on the first floor of the Jhuggi No. D-79 and regarding that the Appellant/Claimant has sought allotment from DDA but his claim has been rejected by Eligibility Determination Committee on the ground that her Voter ID Card could not be verified/upper floor, in spite of the fact that he is having all the requisite documents as per policy guidelines issued by DDA and accordingly aggrieved by the same, he has filed the present Appeal No. 16 of 2024 before the Appellate Authority for redressal. The

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

12. DDA has furnished survey records along with one video clip of Jhuggi No. D-79. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. D-79 on 18.03.2020 on the ground floor of the said Jhuggi and his photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

13. DDA has furnished survey record along with two video clips. The videos were played before the Appellant/Claimant when his statement was recorded before us on 29.04.2024 wherein he has stated that the first video clip pertains to the ground floor of Jhuggi No. D-79 in which the Jhuggi is clearly seen from outside to be a pucca double storey structure and having iron ladder placed outside in the gali and used for going to the upper floor and further, Rajesh who is brother of the present Appellant/Claimant is seen and getting the survey conducted and he is also heard stating that his brother is living on the first floor and further, two interconnected rooms on the ground floor and kitchen of Rajesh are seen and further, he is also seen holding a slate in his hand on which "D-79 RAJESH KUMAR NOT IN LIST G.F" is clearly seen to have been written. The second video clip pertains to the first floor of the said Jhuggi No. D-79 in which the Appellant/Claimant is seen and further, an iron ladder going from the ground floor to the first floor is also seen and further, room & kitchen on the first floor of the Jhuggi No. D-79 is seen and further, the Appellant/Claimant is also seen holding a slate in his hand on which "D-79 SARVESH KUMAR F.F" is clearly seen to have been written.

14. There is nothing to disbelieve the statement of the Appellant/Claimant that the Jhuggi No. D-79 was a double storey structure Vihar on the cutoff date of 01.01.2015 and it comprises of two interconnected rooms on the ground floor in which his brother Rajesh along with his

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family is living and regarding that Rajesh has sought allotment from DDA but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same, he has filed Appeal before the Appellate Authority but the details of the Appeal filed by Rajesh is not available. Furthermore, it is also proved that the Appellant/Claimant was living on the first floor of the Jhuggi No. D-79 which comprises of one room and using the same for residential purposes.

15. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. D-79 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant was & is still using the first floor of the said double storey Jhuggi No. D-79 for residential purposes.

16. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of the said double storey Jhuggi No. D-79 as per the policy guidelines issued by DDA.

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

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

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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. 350-82/09.G/ dated 01.07.2023.

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 33years 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

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floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.

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

20. 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.

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GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNETS OF DOCUMENTS

21. 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.

22. 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 33years 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 - REQUIREMNETS OF DOCUMENTS

23. 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."

24. 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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25. 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 33years 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

26. 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.

27. 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

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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.

28. 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".

29. 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 17.08.2033thereby 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

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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 Authority was upheld thereby setting aside the***

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

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*88. Furthermore, in the instant petition the petitioners contended that they have applied for Ration **C**ards, however, they have not been issued the same by the **C**ompetent **A**uthority. 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 Ors[2] 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

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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.

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

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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 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 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.

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

30. 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. 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.

31. 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.

32. 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

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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.

33. 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.

34. 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,

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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.

35. 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

36. 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 first floor of the Jhuggi No. D-79 as per the policy guidelines issued by DDA.

37. The Appellant/Claimant has tendered his Voter ID Card No. WHC 2337988 (Annexure-A), Aadhar Card (Annexure-F) and PAN Card (Annexure-C) in support of his claim.

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38. It is pointed out that the Voter ID Card No. WHC 2337988 (Annexure-A) of the Appellant/Claimant has been issued on 16.04.2019, much after the cutoff date 01.01.2015 and accordingly, the question of his name appearing in any of the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Here it is also pointed out that the Appellant/Claimant has categorically stated that prior to getting the Voter ID Card No. WHC 2337988 (Annexure-A) issued, he had got a forged & fabricated Voter ID Card issued on the address of the Jhuggi No. D-79 and this admission shows that the Appellant/Claimant had got the forged & fabricated document issued in order to support his claim and this creates doubt & suspicion about the genuineness & veracity of his claim as with dishonest intention he wants to create forged & fabricated documents to grab allotment from DDA by hook or crook. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. D-79 regarding which he has been claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

39. The Appellant/Claimant has tendered the Voter ID Card No. WHC 2336725 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Sapna, Ration Card No. 077005266236 (Annexure-G), his Passport (Annexure-H), Electricity Bill (Annexure-I) & Passbook of Dena Bank (Annexure-J) in support of his claim.

40. It is pointed out that the Appellant/Claimant has tendered the Voter ID Card of his wife Sapna bearing No. WHC 2336725 (Annexure-D) and it has been issued on 16.04.2019, much after the cutoff date of 01.01.2015 and accordingly, the question of his name appearing in any of the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. This shows that neither the Appellant/Claimant nor his wife Sapna was having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. D-79, regarding which the Appellant/Claimant is claiming allotment from DDA. The Ration Card (Annexure-G) bearing No. 077005266236 shows that it has been

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issued in favour of his wife Sapna on 25.08.2020, much after the cutoff date 01.01.2015. Further, the Passport (Annexure-H) of the Appellant/Claimant has been issued on 02.03.2020, much after the cutoff date of 01.01.2015. The Electricity Bill (Annexure-I) shows that the electricity connection has been taken by his brother Rajesh on 30.03.2006 thereby showing that the Appellant/Claimant was not having a separate electricity connection on the first floor of the Jhuggi No. D-79, regarding which he is claiming allotment from DDA. Furthermore, the Passbook of Dena Bank (Annexure-J) shows that Appellant/Claimant has opened the account on 27.03.2014. 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 was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. D-79 regarding which he has been claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

41. 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 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

42. 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 present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. D-79 regarding which he has been claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the

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Appellant/Claimant does not fulfill the eligibility criteria as per the 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 survey conducted 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. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her 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-J, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her 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.

43. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-82/09.G/ dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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(Ranbir Singh)
Jt. Secretary (Retd.) GOI
MEMBER

16/5/2024

(Satish Ahlawat)
Addl. District & Sessions Judge (Retd.)
CHAIRMAN

16/5/2024

(Rachna Tiwary
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 84 of 2024

Date of Institution: 12.07.2023

Date of Order: 17.05.2024

Present: Appellant/ Claimant Jamil Ahmad S/o Lal Mohammad

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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-120, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents and further, a Public Notice was also issued whereby the dwellers were given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-120 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal

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Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-108/5.G/ dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 84 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam Meena, 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-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. 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-120 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. A-120 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Jamil Ahmad has been recorded before us on 07.05.2024 wherein he has stated that he is married with Nagma and having two children, Md. Azam & Aanam. Both the children are unmarried.

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9. The Appellant/Claimant has stated that previously he was living in House No. B-188, Kaushalpuri, Model Town, Azadpur, Delhi and he has got the Voter ID Card & Aadhar Card, etc., issued on the address of B-188, Kaushalpuri, Model Town. Thereafter, he had purchased Jhuggi No. A-120, Jailorwala Bagh, Ashok Vihar in the year 2018 and started living in the said Jhuggi along with his family. This Jhuggi is a double storey structure and it comprises of one room on each floor and a wooden ladder is placed outside in the gali and it is used for going to the upper floor.

10. At the very out set it is pointed out that the admission of the Appellant/Claimant is clincher piece of evidence as he has categorically admitted that he was not living in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 but he had come to live in Jhuggi No. A-120, Jailorwala Bagh, Ashok Vihar in the year 2018, therefore, he is not eligible to get allotment from DDA as per the policy guidelines issued by DDA.

11. The Appellant/Claimant has stated that he has sought allotment from DDA against the double storey Jhuggi No. A-120 but his claim has been rejected by Eligibility Determination Committee on the ground that her Voter ID Card could not be verified and also that he had sought allotment against the upper floor in spite of the fact that he is having all the requisite documents as per policy guidelines issued by DDA and further he is claiming allotment against the double storey Jhuggi No. A-120 and accordingly, aggrieved by the same, he has filed the present Appeal No. 84 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished survey records along with one video clip of Jhuggi No. A-120. As per survey records the survey was got conducted by the wife of the Appellant/Claimant of Jhuggi No. A-120 on 17.03.2020 on the ground floor of the said Jhuggi and her photographs are also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof. The video was played before the Appellant/Claimant when his statement was recorded before us on 07.05.2024 wherein he has stated that the video clip pertains to the Jhuggi No. A-120 in which the Appellant/Claimant is seen and getting the

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survey conducted and his room & kitchen on the ground floor are also seen and further, he is also seen holding a slate in his hand on which "A-120 JAMIL AHMAD G+1" is clearly seen to have been written.

13. As already pointed out that the admission of the Appellant/Claimant is a clincher piece of evidence as he has specifically admitted that he along with his family was living in the House No. B-188, Kaushalpuri, Model Town, Azadpur, Delhi and he had purchased double storey Jhuggi No. A-120, Jailorwala Bagh in the year 2018. This shows that the Appellant/Claimant was not living in the Jhuggi No. A-120, Jailorwala Bagh, regarding which he is claiming allotment from DDA on the cutoff date of 01.01.2015 because he has come to live in this Jhuggi after purchasing the same in the year 2018. Therefore, we have no hesitation in holding that the Appellant/Claimant is not eligible to seek alternative allotment from DDA against double storey Jhuggi No. A-120, Jailorwala Bagh as per the policy/guidelines issued by DDA.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the said double storey pucca Jhuggi No. A-120 as per the policy guidelines issued by DDA.

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

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

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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. 350-108/5.G/ dated 01.07.2023.

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 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."

18. 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) - REQUIREMNETS OF DOCUMENTS

19. 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.

20. 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 - REQUIREMNETS OF DOCUMENTS

21. 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."

22. 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.

23. 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-

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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

24. 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.

25. 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 Jailorwala Bagh, 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 Jailorwala Bagh, 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

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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.

26. 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".

27. 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

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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. 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 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 **C**ards, however, they have not been issued the same by the **C**ompetent **A**uthority. 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.*

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> *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 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 Ors[2] 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*

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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 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

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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 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

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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."

28. 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. 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.

29. 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

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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.

30. 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.

31. 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

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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.

32. 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.

33. 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.

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GIST OF THE POLICY

34. 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 the said double storey Jhuggi No. A-120 as per the policy guidelines issued by DDA.

35. The Appellant/Claimant has tendered his three Voter ID Cards (Annexure-A, Annexure-B & Annexure-C), Aadhar Card (Annexure-D) and PAN Card (Annexure-E) in support of his claim.

36. It is pointed out that the Appellant/Claimant has tendered three Voter ID Cards (Annexure-A to Annexure-C). Two Voter ID Cards (Annexure-A & Annexure-B) are bearing the same number i.e. DL/06/062/096498 and both of them have been issued on the address of House No. B-188, Kaushalpuri, Model Town, Azadpur, Delhi. The first Voter ID Card (Annexure-A) has been issued on 04.05.1995 and the second Voter ID Card (Annexure-B) has been issued on 28.03.2011. However, both the Voter ID Cards (Annexure-A & Annexure-B) are not relevant to determine the eligibility of the Appellant/Claimant as both the documents have been issued on the address of House No. B-188, Kaushalpuri, Model Town, Azadpur, Delhi and not on the address of Jhuggi No. A-120, Jailorwala Bagh, Ashok Vihar, regarding which he is claiming allotment from DDA.

37. The third Voter ID Card (Annexure-C) is bearing No. WHC 2310605 and it has been issued on the address of the Jhuggi No. A-120, Jailorwala Bagh on 07.02.2019, much after the cutoff date 01.01.2015 and accordingly the question of his name arising in any of the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Thus the fact remains that the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. A-120, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further, his name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

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38. The Appellant/Claimant has tendered two Ration Cards (Annexure-F & Annexure-G), Electricity Bill (Annexure-H) and Passbook of Union Bank (Annexure-I).

39. It is pointed out that the old Ration Card (Annexure-F) is bearing No. BPL 62200557 and it has been issued in favour of the Appellant/Claimant on 15.12.2008 on the address of House No. B-188, Kaushalpuri, Model Town, Azadpur, Delhi, and accordingly this document is not relevant to determine the eligibility of the Appellant/Claimant as it has not been issued on the address of Jhuggi No. A-120, Jailorwala Bagh, regarding which he is claiming allotment from DDA. The new Ration Card (Annexure-G) is bearing No. 077002626631 and it has been issued in favour of his wife Nagma on 24.07.2020, much after the cutoff date of 01.01.2015. The Electricity Bill (Annexure-H) shows that the electricity connection has been taken by the Appellant/Claimant on 26.03.2019, much after the cutoff date of 01.01.2015. Furthermore, the Passbook of Union Bank (Annexure-I) shows that Appellant/Claimant has opened the account on 21.08.2006 but it has been opened on the address of House No. B-188, Kaushalpuri, Model Town, Azadpur, Delhi and not on the address of the Jhuggi No. A-120, Jailorwala Bagh, regarding which he is claiming allotment from DDA and accordingly these documents are also not relevant to determine the eligibility of the Appellant/Claimant. 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 was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-120 regarding which he has been claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

40. 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

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were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

41. 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 was not living in the Jhuggi No. A-120, Jailorwala Bagh, regarding which he is claiming allotment from DDA on the cutoff date of 01.01.2015 because he has come to live in this Jhuggi after purchasing the same in the year 2018 and furthermore the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-120 regarding which he has been claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. 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 survey conducted 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. 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-I, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her 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.

42. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-108/5.G/ dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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(Ranbir Singh) | **(Satish Ahlawat)** | **(Rachna Tiwary**

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

MEMBER | **CHAIRMAN** | **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 177 of 2024

Date of Institution: 18.07.2023

Date of Order: 17.05.2024

Present: Appellant/ Claimant Neha W/o Suman

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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. A-133, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-133 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has

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rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-76/2.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 177 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 16.04.2024. 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 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 single storey Jhuggi bearing No. A-133 was found to exist but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi No. A-133 as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant Neha has been recorded before us on 16.04.2024 wherein she has stated that her in-laws Ashok Shah & Munni Devi are having two sons; Suman & Saurabh and one daughter Khushbu. All the children are married. Khushbu is married with Sudhir and having two children but she is having strained relations with her husband and accordingly, she is living with her parents in Jailorwala Bagh, Ashok Bihar, Delhi. Saurabh is married with Goldi and having two children, Pihu & Vansh. Suman is married with Neha (Appellant/Claimant) and having three children; Shrishti, Mishti & Riyansh.

9. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. A-133 and it comprises of one room on the ground floor and two rooms on the first floor and a bamboo ladder has been placed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that the room on the ground floor and both the rooms on the first floor are separate dwelling units and both are bearing the same Jhuggi number i.e. Jhuggi No. A-133. At the very outset it is pointed out that three separate Jhuggis having one number creates doubt & suspicion because it gives an opportunity to the unscrupulous elements to use the documents got issued on the address of one Jhuggi to claim allotment from DDA against another Jhuggi which happens to be having the same number.

11. The Appellant/Claimant has stated that her in-laws Ashok Shah & Munni Devi, along with their daughter; Khushbu are living on the ground floor of the Jhuggi No. A-133 and regarding that DDA has made allotment in favour of her mother-in-law, Munni Devi. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that Saurabh along with his wife Goldi and both the children; Pihu & Vansh, is living in the first room on the first floor of the Jhuggi No. A-133 and regarding that Goldi has sought allotment from DDA but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same, she has filed the Appeal No. 170 of 2024 before the Appellate Authority for redressal and the same is still pending. These facts are not disputed by DDA.

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13. The Appellant/Claimant has stated that she along with her husband Suman and all the three children; Shrishti, Mishti & Riyansh, is living in the second room on the first floor of the Jhuggi No. A-133. The Appellant/Claimant has sought allotment from DDA against the said second room on the first floor of the Jhuggi No. A-133, Jailorwala Bagh but her claim has been rejected by Eligibility Determination Committee on the ground that her Voter ID Card could not be verified/upper floor in spite of the fact that she is having all the requisite documents and accordingly, aggrieved by the same, she has filed the present Appeal No. 177 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-T, in support of her claim and prayed that DDA be directed to make allotment in her favour.

14. It is pointed out that both the Appeals bearing Appeal No. 170 of 2024 and 177 of 2024 shall be decided separately & independently on their individual merits.

15. DDA has furnished survey records along with three video clips of Jhuggi No. A-133. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. A-133 on 11.04.2020 on the ground floor of the said Jhuggi and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was not present and she had got the survey/videography conducted through her sister-in-law, Goldi W/o Saurabh, and the video clip is also attached in token thereof.

16. DDA has furnished survey record along with three video clips pertaining to the Jhuggi No. A-133. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 16.04.2024 wherein she has stated that the first video clip pertains to the ground floor of the Jhuggi No. A-133 in which Saurabh is seen and getting the survey conducted on behalf of his mother Munni Devi and the room & kitchen of Munni Devi on the ground floor is seen and further, Saurabh is seen holding a slate in his hand on which "A-133 MUNNI DEVI GF" is clearly seen to have been written. The second video clip pertains to the first room on the first floor of the Jhuggi No. A-133

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in which Goldi W/o Saurabh (Appellant/ Claimant of Appeal No. 170 of 2024) is seen and getting the survey conducted on her behalf and further, her room & kitchen are seen on the first floor and further, she is seen holding a slate in her hand on which "A-133 GOLDI F.F" is clearly seen to have been written. The third video clip pertains to the second room on the first floor of the Jhuggi No. A-133 of Neha (Appellant/ Claimant of Appeal No. 177 of 2024) and in that video clip, Goldi W/o Saurabh is seen and getting the survey conducted on behalf of Neha and further, the room & kitchen of Neha is seen on the first floor and Goldi is also heard stating that the said Jhuggi belongs to Neha and further, Goldi is also seen holding a slate in her hand on which "A-133 NEHA FF" is clearly seen to have been written.

17. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clips, about the existence of the double storey Jhuggi No. A-133. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. A-133 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and her in-laws, Ashok Shah & Munni Devi, are living on the ground floor of the Jhuggi No. A-133 and regarding that DDA has made allotment in favour of her mother-in-law, Munni Devi; Goldi W/o Saurabh (Appellant/Claimant of Appeal No. 170 of 2024) along with her family is living in the first room on the first floor of the Jhuggi No. A-133 and further Neha W/o Suman (Appellant/Claimant of Appeal No. 177 of 2024) along with her family is living in the second room on the first floor of the Jhuggi No. A-133 and the Appellant/Claimant is using the same for residential purposes.

18. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-133 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the second room on the first floor of the Jhuggi No. A-133 for residential purposes.

19. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters 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

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and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi No. A-133 as per the policy guidelines issued by DDA.

20. The Appellant/ Claimant has stated that his 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.

21. 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 her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-76/2.G dated 01.07.2023.

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**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 99years of age.

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

<u>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:</u>

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

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

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) - REQUIREMNETS 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 99years 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

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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 - REQUIREMNETS OF DOCUMENTS

26. 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."

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 99years 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

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

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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.

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**

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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 had filed Appeal No. 40 of 2017 before this very Appellate Authority and his appeal was allowed by this Appellate Authority vide order dated 17.08.2099thereby 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 17.08.2099was 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 19.07.2099thereby holding that he fulfills the eligibility criteria as per the guidelines issued

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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. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food*

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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*

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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 Ors[2] 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,*

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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 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

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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 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

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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 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

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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 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

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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 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

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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 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. A-133 as per the policy guidelines issued by DDA.

40. The Appellant/Claimant has tendered her Voter ID Card No. WHC 2219714 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of her claim.

41. It is pointed out that the Appellant/Claimant has tendered her Voter ID Card bearing number WHC 2219714 (Annexure-A) and it has been issued on 05.09.2016, much after the cutoff date of 01.01.2015 and accordingly the question of her name appearing in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-133 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

42. The Appellant/Claimant has also tendered the Voter ID Card No. WHC 2163524 (Annexure-D), Aadhar Card (Annexure-E), PAN Card (Annexure-F) & Driving License (Annexure-G) of her husband Suman, Electricity Bill (Annexure-H), Passbook of SBI (Annexure-I), Passbook of Allahabad Bank (Annexure-J), LIC Receipt (Annexure-K),

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Identity Card (Annexure-L), School Report Card (Annexure-M), Student Assessment Report (Annexure-N), Birth Certificates (Annexure-O to Annexure-Q) of her children Riyansh, Mishti & Shrishti, Aadhar Cards (Annexure-R to Annexure-T) of her children; Shrishti, Mishti & Riyansh.

43. It is pointed out that the Voter ID Card No. WHC 2163524 (Annexure-D) of her husband Suman has been issued on 14.07.2015, much after the cutoff date of 01.01.2015, and accordingly, the question of his name arising in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. This shows that neither the Appellant/Claimant nor her husband Suman was having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. A-133, regarding which the Appellant/Claimant is claiming allotment from DDA. It is pointed out that the Driving Licence (Annexure-G) of Suman has been issued on 25.02.2015, much after the cutoff date of 01.01.2015. The Electricity Bill (Annexure-H) shows that the electricity connection has been taken by her husband Suman on 04.05.2016, much after the cutoff date of 01.01.2015. The Passbook of SBI (Annexure-I) shows that her husband Suman has opened the account on 24.08.2013 whereas the Passbook of Allahabad Bank (Annexure-J) shows that the Appellant/Claimant had opened the account on 19.03.2018, much after the cutoff date of 01.01.2015. The LIC Receipt (Annexure-K) shows that her husband has purchased the LIC Policy but the receipt has been issued on 23.05.2018, much after the cutoff date of 01.01.2015. The Identity Card (Annexure-L) of her husband Suman is not bearing the date of issuance and accordingly, it is not relevant. The School Report Card (Annexure-M) of her daughter Shrishti is also not having any date and accordingly, this document is also not relevant. The Student Assessment Report (Annexure-N) of her daughter Shrishti pertains to the year 2022-23 and accordingly, this document is not relevant since it has been issued post cutoff date of 01.01.2015. The Birth Certificates (Annexure-O to Annexure-Q) of her children Mishti, Shrishti & Riyansh have also been issued on 16.08.2023, 07.09.2020 & 09.02.2017 thereby showing that all these documents have been issued much after the cutoff date of 01.01.2015. 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 her favour to claim allotment from DDA because as per our discussion above the

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Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-133 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

44. 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 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

45. 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 present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-133 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. 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 survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her 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

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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 her 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.

46. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-76/2.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

47. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.20232passed by Hon'ble High Court of Delhi in WP(C) No. 6728/20232and C.M. Appeal 25594/20232titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary**

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

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 170 of 2024

Date of Institution: 17.07.2023

Date of Order: 17.05.2024

Present: Appellant/ Claimant Goldi W/o Saurabh

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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. A-133, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-133 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the

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Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-76/4.1 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 170 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 16.04.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. 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 single storey Jhuggi bearing No. A-133 was found to exist but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi No. A-133 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Neha has been recorded before us on 16.04.2024 wherein she has stated that her in-laws Ashok Shah & Munni Devi are having

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two sons; Suman & Saurabh and one daughter Khushbu. All the children are married. Khushbu is married with Sudhir and having two children but she is having strained relations with her husband and accordingly, she is living with her parents in Jailorwala Bagh, Ashok Bihar, Delhi. Suman is married with Neha and having three children; Shrishti, Mishti & Riyansh. Saurabh is married with Goldi (Appellant/Claimant) and having two children, Pihu & Vansh.

9. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. A-133 and it comprises of one room on the ground floor and two rooms on the first floor and a bamboo ladder has been placed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that the room on the ground floor and both the rooms on the first floor are separate dwelling units and both are bearing the same Jhuggi number i.e. Jhuggi No. A-133. At the very outset it is pointed out that three separate Jhuggis having one number creates doubt & suspicion because it gives an opportunity to the unscrupulous elements to use the documents got issued on the address of one Jhuggi to claim allotment from DDA against another Jhuggi which happens to be having the same number.

11. The Appellant/Claimant has stated that her in-laws Ashok Shah & Munni Devi, along with their daughter; Khushbu are living on the ground floor of the Jhuggi No. A-133 and regarding that DDA has made allotment in favour of her mother-in-law, Munni Devi. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that Suman along with his wife Neha and all the three children; Shrishti, Mishti & Riyansh, is living in the first room on the first floor of the Jhuggi No. A-133 and regarding that Goldi has sought allotment from DDA but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same, she has filed the Appeal No. 177 of 2024 before the Appellate Authority for redressal and the same is still pending. These facts are not disputed by DDA.

13. The Appellant/Claimant has stated that she along with her husband Suarabh and both the children; Pihu & Vansh, is living in the second room on the first floor of the Jhuggi

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No. A-133. The Appellant/Claimant has sought allotment from DDA against the said second room on the first floor of the Jhuggi No. A-133, Jailorwala Bagh but her claim has been rejected by Eligibility Determination Committee on the ground that her Voter ID Card could not be verified/upper floor in spite of the fact that she is having all the requisite documents and accordingly, aggrieved by the same, she has filed the present Appeal No. 170 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of her claim and prayed that DDA be directed to make allotment in her favour.

14. It is pointed out that both the Appeals bearing Appeal No. 170 of 2024 and 177 of 2024 shall be decided separately & independently on their individual merits.

15. DDA has furnished survey records along with three video clips of Jhuggi No. A-133. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. A-133 on 11.04.2020 on the ground floor of the said Jhuggi and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

16. DDA has furnished survey record along with three video clips pertaining to the Jhuggi No. A-133. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 16.04.2024 wherein she has stated that the first video clip pertains to the ground floor of the Jhuggi No. A-133 in which Saurabh is seen and getting the survey conducted on behalf of his mother Munni Devi and the room & kitchen of Munni Devi on the ground floor is seen and further, Saurabh is seen holding a slate in his hand on which "A-133 MUNNI DEVI GF" is clearly seen to have been written. The second video clip pertains to the first room on the first floor of the Jhuggi No. A-133 in which Goldi W/o Saurabh (Appellant/ Claimant of Appeal No. 170 of 2024) is seen and getting the survey conducted on her behalf and further, her room & kitchen are seen on the first floor and further, she is seen holding a slate in her hand on which "A-133 GOLDI F.F" is clearly seen to have been written. The third video clip pertains to the second room on the first floor of the Jhuggi No. A-133 of Neha (Appellant/ Claimant of

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Appeal No. 177 of 2024) and in that video clip, Goldi W/o Saurabh is seen and getting the survey conducted on behalf of Neha and further, the room & kitchen of Neha is seen on the first floor and Goldi is also heard stating that the said Jhuggi belongs to Neha and further, Goldi is also seen holding a slate in her hand on which "A-133 NEHA FF" is clearly seen to have been written.

17. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clips, about the existence of the double storey Jhuggi No. A-133. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. A-133 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and her in-laws, Ashok Shah & Munni Devi, are living on the ground floor of the Jhuggi No. A-133 and regarding that DDA has made allotment in favour of her mother-in-law, Munni Devi and further Goldi W/o Saurabh (Appellant/Claimant of Appeal No. 170 of 2024) along with her family is living in the first room on the first floor of the Jhuggi No. A-133 and further Neha W/o Suman (Appellant/Claimant of Appeal No. 177 of 2024) along with her family is living in the second room on the first floor of the Jhuggi No. A-133 and the present Appellant/Claimant is using the same for residential purposes.

18. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-133 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the first room on the first floor of the Jhuggi No. A-133 for residential purposes.

19. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi No. A-133 as per the policy guidelines issued by DDA.

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

21. 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 her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-76/4.1 dated 01.07.2023.

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**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 99years 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

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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) - REQUIREMNETS 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 99years 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 - REQUIREMNETS OF DOCUMENTS

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26. 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."

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 99years 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

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

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irrespective of that whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

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

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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 17.08.2099thereby 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 17.08.2099was 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 19.07.2099thereby 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 19.07.2099was 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

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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. 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*

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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.

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

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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 Ors[2] 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*

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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.

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.

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

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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 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

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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.

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,

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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 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 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. A-133 as per the policy guidelines issued by DDA.

40. The Appellant/Claimant has tendered her Voter ID Card No. WHC 2364271 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of her claim.

41. It is pointed out that the Appellant/Claimant has tendered her Voter ID Card bearing number WHC 2364271 (Annexure-A) and it has been issued on 22.04.2019, much after

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the cutoff date of 01.01.2015 and accordingly the question of her name appearing in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-133 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

42. The Appellant/Claimant has also tendered the Voter ID Card No. WHC 2364255 (Annexure-D), Aadhar Card (Annexure-E), PAN Card (Annexure-F) & Driving License (Annexure-G) of her husband Saurabh, Passbook of SBI (Annexure-H), Aadhar Cards (Annexure-I & Annexure-J) of her children; Pihu & Vansh, Birth Certificates (Annexure-K & Annexure-L) of her children Vansh & Pihu as well as LIC Receipt (Annexure-M).

43. It is pointed out that the Voter ID Card No. WHC 2364255 (Annexure-D) of her husband Saurabh has been issued on 16.09.2023, much after the cutoff date of 01.01.2015, accordingly, the question of his name arising in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. This shows that neither the Appellant/Claimant nor her husband Saurabh was having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. A-133, regarding which the Appellant/Claimant is claiming allotment from DDA. It is pointed out that the Driving Licence (Annexure-G) of Saurabh has been issued on 28.07.2019, much after the cutoff date of 01.01.2015. The Passbook of SBI (Annexure-H) shows that her husband Saurabh has opened the account on 16.05.2017, much after the cutoff date of 01.01.2015. The Birth Certificates (Annexure-K & Annexure-L) of her children Vansh & Pihu have also been issued on 11.06.2018 & 28.07.2022 respectively thereby showing that both these documents have been issued much after the cutoff date of 01.01.2015. The LIC Receipt (Annexure-M) shows that her husband Saurabh has purchased the LIC Policy but the receipt has been issued on 23.05.2018, much after the cutoff date of 01.01.2015. 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 her favour to claim allotment from DDA because as per our discussion above the

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Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-133 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

44. 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 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

45. 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 present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-133 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. 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 survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her 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-M, furnished by the Appellant/ Claimant do not create

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any legal right, title and interest in her favour to make her 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.

46. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-76/4.1 dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

47. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.20232passed by Hon'ble High Court of Delhi in WP(C) No. 6728/20232and C.M. Appeal 25594/20232titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

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

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 232 of 2024

Date of Institution: 26.07.2023

Date of Order: 21.05.2024

Present: Appellant/ Claimant Md. Shahid S/o Noordeen

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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. G-18, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. G-18 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination

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Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-81/58.1/ dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 232 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 24.04.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-F, 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. G-18 was found to exist on the first floor but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of Jhuggi No. G-18 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Mohd. Shahid has been recorded before us on 24.04.2024 wherein he has stated that his parents, Md. Noordeen & Nasima Begum, are

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having two sons; Shahid & Sahil and two daughters; Shazadi & Gulabsha. All the children except Sahil are married. Shazadi is married with Tufail and she is living in her matrimonial home in Muzaffarpur, Bihar. Gulabsha is married with Kabir and she is living in her matrimonial home in Bhatinda, Punjab. Md. Shahid (Appellant/Claimant) is married with Hira and having one child Murad.

9. The Appellant/Claimant has stated that the Jhuggi No. G-18 is a double storey structure and it comprises of one room on the ground floor and two rooms on the first floor and an iron ladder is placed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that the family of Chameli W/o Harikesh is known to them. This double storey Jhuggi No. G-18 was purchased by Chameli W/o Harikesh in the year 2008 and after purchasing the same Chameli along with her family had started living in the said double storey Jhuggi No. G-18 and regarding that DDA has made allotment in favour of Chameli W/o Harikesh. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that the first floor of Jhuggi No. G-18 comprised of two rooms. The first floor of the said of Jhuggi No. G-18 was taken on rent by the Appellant/Claimant from Chameli in the year 2015 and he along with his family had started living as tenant under the said Chameli W/o Harikesh. The Appellant/Claimant is living in one of the rooms whereas his parents & brother Sahil are living in the second room on the first floor of the said Jhuggi No. G-18. The Appellant/Claimant has sought allotment from DDA against both the rooms on the first floor of the Jhuggi No. G-18 but his claim has been rejected by Eligibility Determination Committee on the ground that his Voter ID Card could not be verified/upper floor, in spite of the fact that he is having all the requisite documents as per policy guidelines issued by DDA and accordingly, aggrieved by the same, he has filed the present Appeal No. 232 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-F, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished survey records along with two video clips of Jhuggi No. G-18. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. G-18 on 21.03.2020 on the said Jhuggi and the photographs of his family members are also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein.

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Further, at the time of conducing of survey/videography the mother of the Appellant/Claimant was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

13. DDA has furnished survey record along with two video clips. The videos were played before the Appellant/Claimant when his statement was recorded before us on 24.04.2024 wherein he has stated that the first video clip pertains to the Jhuggi No. G-18 in which the said Jhuggi is clearly seen from outside to be a double storey pucca structure and an iron ladder placed outside in the gali is seen going from the ground floor to the upper floor and further, Chameli W/o Harikesh, is seen and getting the survey conducted on the ground floor and she is also seen holding a slate in her hand on which "G-18 CHAMELI G+1" is clearly seen to have been written and further, she is also heard making a statement that the Jhuggi is a double storey structure and on the first floor, Shahid is living on rent. The second video clip pertains to the first floor of the Jhuggi No. G-232in which his mother Nasima is seen and getting the survey conducted on behalf of the Appellant/Claimant and further, his room & kitchen on the first floor are also seen and further, she is also seen holding a slate in her hand on which "G-18 SHAHID F.F" is clearly seen to have been written. Further, she is also heard making a statement that the land owner is living on the ground floor whereas they are the tenant and living on the first floor.

14. As pointed out above in the video clips prepared by the survey team of DDA, both Chameli & Nasima are heard making a statement that the landlady Chameli W/o Harikesh is living on the ground floor whereas the tenant Appellant/Claimant Shahid along with his family is living on rent on the first floor. This fact is also admitted by the Appellant/Claimant Md. Shahid when his statement was recorded before us on 24.04.2024 as he has clearly stated that the double storey Jhuggi was purchased by Chameli W/o Harikesh in the year 2008 and the family of the landlady continued to live in the said double storey Jhuggi up to the year 2015 and DDA has made allotment in favour of Chameli against the said double storey Jhuggi No. G-18. Thus from 2008 to 2015 the entire double storey Jhuggi No. G-18 was occupied by the landlady Chameli W/o Harikesh & her family and further regarding this double storey Jhuggi No. G-18 DDA has already made allotment in favour of landlady Chameli W/o Harikesh.

15. The Appellant/Claimant has also categorically admitted that the first floor of the Jhuggi No.

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G-18 was given on rent by the landlady Chameli W/o Harikesh to him in the year 2015 whereas the family of the landlady Chameli W/o Harikesh continued to occupy the ground floor and since the inception of tenancy in the year 2015 he along with his family is living as tenant under the said Chameli on the first floor of the Jhuggi No. G-18. It is also pointed out that no Rent Agreement or rent receipts are tendered to ascertain the date of tenancy. However, the statement of the Appellant/Claimant shows that the tenancy came into existence after the cutoff date of 01.01.2015 and that is why he has in the vaguest terms has stated that the tenancy started in the year 2015. Thus had the tenancy started from 01.01.2015 then he would have taken a specific stand that it started with effect from 01.01.2015. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that the Appellant/Claimant has been living on the first floor of the Jhuggi No. G-18 as tenant under Chameli W/o Harikesh since 2015 and the tenancy had come into existence after the cutoff date of 01.01.2015. This shows that the Appellant/Claimant was not living on the first floor of the Jhuggi No. G-18 on the cutoff date of 01.01.2015.

16. Furthermore, DDA has already made allotment in favour of Chameli W/o Harikesh against the double storey Jhuggi No. G-18 and accordingly, second allotment against that very Jhuggi is not permissible as per the policy/guidelines issued by DDA especially when on the cutoff date of 01.01.2015 the Appellant/Claimant was not living in any of the capacity on the first floor of the Jhuggi No. G-18 because he happened to have started living on the first floor of the Jhuggi No. G-18 in the capacity of tenant in the year 2015, i.e., much after the cutoff date of 01.01.2015. Furthermore, it is also pertinent to point out that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. G-18 regarding which he has been claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further it is also pointed out that the Appellant/Claimant has tendered documents, Annexure- A, Annexure-B, Annexure-D & Annexure- E, which have been issued much after the cutoff date of 01.01.2015 and this shows that neither the Appellant/Claimant nor any of his family member was living on the first floor of the Jhuggi No. G-18 on the cut off date of 01.01.2015. Thus the material placed on file shows that the Appellant/Claimant on the cut off date of 01.01.2015 was not living on the first floor of the Jhuggi No. G-18 and

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accordingly he does not fulfil the eligibility criteria to claim alternate allotment from DDA as per the policy guidelines issued by DDA.

17. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. G-18 was in existence in the Jailorwala Bagh, Ashok Vihar and it was single dwelling unit on the cutoff date of 01.01.2015 and the entire double storey Jhuggi was occupied by the family of Chameli W/o Harikesh and regarding that DDA has already made allotment in favour of Chameli W/o Harikesh and accordingly second allotment is not permissible against that very Jhuggi in favour of the Appellant/Claimant whether in his individual capacity or as tenant under the landlady Chameli W/o Harikesh. Further, the fact cannot be lost sight that the Appellant/Claimant had come to occupy the first floor of the said double storey Jhuggi No. G-18 in the capacity of tenant under the landlady Chameli W/o Harikesh after the cutoff date of 01.01.2015 and accordingly he is not entitled to claim allotment from DDA against the first floor of the said double storey Jhuggi No. G-18 as per the policy guideline issued by DDA.

18. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of the Jhuggi No. G-18 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-F, in support of his claim and prayed that DDA be directed to make allotment in his favour.

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

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on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a 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. 350-81/58.1/ dated 01.07.2023.

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**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 33years 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

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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 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.

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GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNETS 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 33years 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 - REQUIREMNETS 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 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**

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the JJ dwellers must be a citizen of India and not less than 33years 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 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

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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

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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 17.08.2018was 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 19.07.2018thereby 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 19.07.2033was 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

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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 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*

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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 realistic view of the circumstances before it.

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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 Ors[2] 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.

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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 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.

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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."

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

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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.

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 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

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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.

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

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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 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 first floor of the said Jhuggi No. G-18 as per the policy guidelines issued by DDA.

39. The Appellant/Claimant has tendered his Voter ID Card bearing No. WHC 3276052 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of his claim.

40. It is pointed out that the Appellant/Claimant has tendered his Voter ID Card (Annexure-A) bearing No. WHC 3276052 and it has been issued on 07.08.2018, much after the cut off date 01.01.2015 and accordingly the question of his name appearing in any of the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. G-18 regarding which he has been claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by

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DDA.

41. The Appellant/Claimant has tendered his Passport (Annexure-D), Electricity Bill (Annexure-E) and Aadhar Card (Annexure-F) of his mother Nasima.

42. It is pointed out that the Passport (Annexure-D) of the Appellant/Claimant has been issued on 13.01.2020, much after the cut off date of 01.01.2015. The Electricity Bill (Annexure-E) shows that the electricity connection has been taken by his mother Nasima on 02.12.2022, much after the cut off date of 01.01.2015. Furthermore, the Appellant/Claimant has tendered the Aadhar Card (Annexure-F) of his mother Nasima Begum but he has not tendered the Voter ID Card of his mother Nasima Begum as well as that of his father Md. Noordeen in order to show that they were also having documents issued on the address of the Jhuggi No. G-18, regarding which the Appellant/Claimant has been claiming allotment from DDA. It is also pointed out that the Appellant/Claimant has not tendered any documents including Voter ID Card of his wife Hira as well as any documents pertaining to his son Murad to show that they were living on the cut off date of 01.01.2015 on the first floor of the Jhuggi No. G-18, regarding which he is claiming allotment from DDA. This shows that neither the Appellant/Claimant nor any of his family members was living on the first floor of the Jhuggi No. G-18 on the cut off date of 01.01.2015 and accordingly, the Appellant/Claimant is not entitled to claim allotment from DDA. 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 was not having a Voter ID Card on the cutoff date of 01.01.2015 and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

43. 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

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dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

44. 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 we have found that the double storey Jhuggi No. G-18 was in existence in the Jailorwala Bagh, Ashok Vihar and it was single dwelling unit and the entire double storey Jhuggi was occupied by the family of Chameli W/o Harikesh on the cutoff date of 01.01.2015 and regarding that DDA has made allotment in favour of landlady Chameli W/o Harikesh and accordingly second allotment is not permissible against that very Jhuggi in favour of the Appellant/Claimant whether in his individual capacity or as tenant under the landlady Chameli W/o Harikesh. Further, the fact cannot be lost sight that the Appellant/Claimant had come to occupy the first floor of the said double storey Jhuggi No. G-18 in the capacity of tenant under the landlady Chameli W/o Harikesh after the cutoff date of 01.01.2015 and accordingly he is not entitled to claim allotment from DDA against the first floor of the said double storey Jhuggi No. G-18 as per the policy guideline issued by DDA and in addition to that the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. G-18, regarding which the Appellant/Claimant has been claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. 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 survey conducted 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. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her 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-F, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her eligible to seek allotment from DDA. Hence, we have no

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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.

45. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-81/58.1/ dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

46. 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 11.07.20232passed by Hon'ble High Court of Delhi in WP(C) No. 6728/20232and C.M. Appeal 25594/20232titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

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

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 06 of 2024

Date of Institution: 02.05.2023

Date of Order: 22.05.2024

Present: Appellant/ Claimant Indresh Saroj S/o Mani Ram

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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. H-98, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. H-98 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the

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Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-83/43.G/ dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 06 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 02.04.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-N, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Dilshad Ahemad, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. H-98 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. H-98 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Indresh has been recorded before us on 02.04.2024 wherein he has stated that his parents, Mani Ram & Kismati, are having two sons; Indresh (Appellant/Claimant) & Mahesh and one daughter; Poonam. Poonam is unmarried. Both the sons are married. Mahesh is married with Mamta and having one son

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Pratik. Indresh (Appellant/Claimant) is married with Kiran and having two daughters; Saloni & Anaya.

9. The Appellant/Claimant has stated that his family is having a Jhuggi No. H-98, Jailorwala Bagh, Ashok Bihar and initially it was a single storey structure but in the year 2022, a room was constructed on the first floor thereby converting it into a double storey structure.

10. The Appellant/Claimant has stated that in the Jhuggi No. H-98, he along with his wife, Kiran, and daughters; Saloni & Anaya, is living on the ground floor whereas his parents, Mani Ram & Kismati Devi, along with their unmarried daughter, Poonam, as well as the family of Mahesh are living on the first floor of the said Jhuggi. The Appellant/Claimant has stated that his father Mani Ram is having all the requisite documents but since he is working outside and frequently out of Delhi, therefore, it was decided by the family that the Appellant/Claimant would file a representation for claiming alternative allotment from DDA against the said Jhuggi No. H-98.

11. The Appellant/Claimant has stated that he has sought alternative allotment from DDA against the Jhuggi No. H-98 but his claim was rejected by Eligibility Determination Committee on the ground that his Voter ID Card could not be verified and further he was found to be living on the upper floor in spite of the fact that he is having requisite documents as per the policy guidelines issued by DDA and further he is living on the ground floor but has claimed allotment against the said double storey Jhuggi and accordingly, aggrieved by the same, he has filed the present Appeal No. 06 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-N, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished survey records along with one video clip of Jhuggi No. H-98. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. H-98 on 18.03.2020 on the ground floor of the said Jhuggi and his photograph and that of his family are also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

13. DDA has furnished survey record along with one video clip pertaining to the Jhuggi No. H-

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98. The video was played before the Appellant/Claimant when his statement was recorded before us on 02.04.2024 wherein he has stated that the video clip pertains to the Jhuggi No. H-98 in which Jhuggi is clearly seen from outside to be a double storey structure and an iron ladder is placed outside in the gali and it is used for going to the upper floor and further, the Appellant/Claimant is seen and getting the survey conducted and his room & kitchen are also seen and further, he is also seen holding a slate in his hand on which "H-98 INDRESH SAROJ G+1" is clearly seen to have been written.

14. The Appellant/Claimant has also tendered the Pen drive (Annexure-N) containing the video of his Jhuggi which has also been saved in the computer along with the video clips prepared by the survey team of DDA and the said video clip was also played before the Appellant/Claimant when his statement was recorded before us on 02.04.2024 wherein he has stated that in the video clip contained in the pen drive (Annexure-N), the Jhuggi No. H-98 is clearly seen to be a double storey structure comprising of one room on each floor and further, an iron ladder is also seen which is placed on the ground floor and it is used for going to the upper floor and further, a room on the first floor is clearly seen to be freshly constructed.

15. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip/pen drive, about the existence of the double storey Jhuggi No. H-98 especially when the Appellant/Claimant has categorically stated that initially Jhuggi No. H-98 was a single storey structure but in the year 2022 a room was constructed on the first floor thereby converting it into a double storey structure. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the single storey Jhuggi No. H-98 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and it was converting into a double storey structure in the year 2022 and further the Appellant/Claimant is living on the ground floor of the said double storey Jhuggi No. H-98 whereas his parents are living on the first floor but the fact remains that the Appellant/Claimant has claimed allotment against the said double storey Jhuggi and further the ground floor is used by him for residential purposes.

16. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. H-98 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the

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Appellant/Claimant was & is still using the said Jhuggi No. H-98 for residential purposes.

17. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. H-98 as per the policy guidelines issued by DDA.

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

19. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a 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. 350-83/43.G/ dated 01.07.2023.

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 33years of age.

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

<u>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:</u>

- 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.

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- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (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."

21. 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) - REQUIREMNETS OF DOCUMENTS

22. 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.

23. 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 33years 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.

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FIRST FLOOR - REQUIREMNETS OF DOCUMENTS

24. 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."

25. 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.

26. 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 33years 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

27. 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

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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.

28. 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.

29. 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".

30. 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

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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 17.08.2033thereby 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 17.08.2018was 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 19.07.2018thereby 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 19.07.2018was 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

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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. 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 **C**ards, however, they have not been issued the same by the **C**ompetent **A**uthority. 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 Ors[2] 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

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

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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.

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

31. 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

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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.

32. 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.

33. 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.

34. 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

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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.

35. 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.

36. 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

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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

37. 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. H-98 as per the policy guidelines issued by DDA.

38. The Appellant/Claimant has tendered his Voter ID Card No. WHC 3581378 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of his claim.

39. It is pointed out that the Appellant/Claimant has tendered his Voter ID Card bearing number WHC 3581378 (Annexure-A) and it has been issued on 18.03.2024, much after the cut off date of 01.01.2015 and accordingly, the question of his name arising in any of the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a valid Voter ID Card on the cut off date of 01.01.2015 issued on the address of the Jhuggi No. H-98, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further, his name also does not appear in the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant is not entitled for claiming alternate allotment from DDA.

40. The Appellant/Claimant has also tendered the Passbook of Karnataka Bank (Annexure-D), Voter ID Card No. WHC 0344366 (Annexure-E) & Aadhar Card (Annexure-F) & PAN Card (Annexure-I) of his father Mani Ram, as well as the Passbook of SBI (Annexure-H), Ration Card No. BPL 17250175 (Annexure-J), Gas Connection document (Annexure-K), Property Survey Report of MCD (Annexure-L) and the Voter List of the year 2012 (Annexure-M).

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41. It is pointed out that the Voter ID Card No. WHC 0344366 (Annexure-E) of his father Mani Ram has been issued on 18.10.2008, much prior to the cut off date of 01.01.2015 and further, his name also appears at Sl. No. 337 in the Voter List of the year 2012 (Annexure-M). However, it is pointed out that the Appellant/Claimant has not tendered the Voter Lists of the years 2013, 2014 & 2015 thereby showing that his father had not used his Voter ID Card to cast vote in any of the elections. Furthermore, the Voter ID Card No. WHC 0344366 (Annexure-E) & Voter List (Annexure-M) relating to his father are not relevant to determine the eligibility of the Appellant/Claimant, especially when as per our discussion above, it has been found that he was not having a valid Voter ID Card issued on the cut off date of 01.01.2015 on the address of Jhuggi No. H-98, regarding which he is claiming allotment from DDA. It is pointed out that the Passbook of Karnataka Bank (Annexure-D) shows that the bank account has been opened by the Appellant/Claimant but the date of opening the account is not mentioned therein. The Electricity Bill (Annexure-G) shows that the electricity connection has been taken by the Appellant/Claimant on 30.12.2020, much after the cut off date of 01.01.2015. The Passbook of SBI (Annexure-H) shows that his father Mani Ram had opened the account on 19.06.2013. Furthermore, the Ration Card bearing No. BPL 17250175 (Annexure-J) has been issued in favour of his father Mani Ram on 12.12.2009 and the name of the Appellant/Claimant also appears therein. The Gas Connection Document (Annexure-K) also shows that his father Mani Ram had taken the gas connection on 27.07.2013. The Property Survey Report of MCD (Annexure-L) shows that it relates to the year 2015-16 regarding the property of his father Mani Ram. 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 was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. H-98, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

42. 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

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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 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

43. 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 present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. H-98, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. 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 survey conducted 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. 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-N, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her 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.

44. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-83/43.G/ dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

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

MEMBER **CHAIRMAN** **EXPERT MEMBER**

EFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 110 of 2024

Date of Institution: 13.07.2023

Date of Order: 24.05.2024

Present: Appellant/ Claimant Raju S/o Ram Avadh

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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. F-127, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. F-127 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the

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Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-201/012.G/ dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 110 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 04.04.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-H, 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. Dilshad Ahemad, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. F-127 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. F-127 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Raju has been recorded before us on 04.04.2024 wherein he has stated that his parents, Ram Avadh & Rajpati, are having four sons; Vijay, Ajay, Pankaj & Raju (Appellant/Claimant) and one daughter Sunita. All the children are

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married. Sunita is married with Jawahar and she is living in her matrimonial home in Azadpur, Delhi. Vijay is married with Chanderkala and having three children. Ajay is married with Poonam and having three children. Pankaj is married with Roshni and having one child. Raju (Appellant/Claimant) is married with Anshlata and having three children; Yuvnit, Aditya & Ayansh.

9. The Appellant/Claimant has stated that his parents, Ram Avadh & Rajpati and both the brothers; Vijay & Ajay along with their respective families are living in their native village in Surela, District Jaunpur, Uttar Pradesh.

10. The Appellant/Claimant has stated that he is having a double storey Jhuggi bearing No. F-127 and it comprises of one room on each floor and an iron ladder is placed outside in the gali and it is used for going to the upper floor.

11. The Appellant/Claimant has stated that he along with his wife Anshlata and all the three children; Yuvnit, Aditya & Ayansh, is living on the ground floor of the Jhuggi No. F-127 whereas his brother Pankaj along with his family has been living first floor whereas both the brothers (the present Appellant/Claimant as well as Pankaj) have been using the second floor jointly. Pankaj has not sought allotment from DDA against the first floor of the said Jhuggi No. F-127. The Appellant/Claimant has stated that he has sought allotment from DDA against the triple storey Jhuggi No. F-127 but his claim has been rejected by the Eligibility Determination Committee on the ground that his Voter ID Card could not be verified and further he was found to be living on the upper floor in spite of the fact that he is having requisite documents as per the policy guidelines issued by DDA and further he has claimed allotment against the said triple storey Jhuggi and accordingly, aggrieved by the same, he has filed the present Appeal No. 110 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-H, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished survey records along with one video clip of Jhuggi No. F-127. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. F-127 on 18.03.2020 on the ground floor of the said Jhuggi and his photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very

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much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

13. DDA has furnished survey record along with one video clip pertaining to the Jhuggi No. F-127. The video was played before the Appellant/Claimant when his statement was recorded before us on 04.04.2024 wherein he has stated that the video clip pertains to the Jhuggi No. F-127 in which the Jhuggi is clearly to be a double storey structure and further, the Appellant/Claimant is seen and getting the survey conducted and his room & kitchen are also seen and further, he is also seen holding a slate in his hand on which "F-127 RAJU G+1" is clearly seen to have been written.

14. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the triple storey Jhuggi No. F-127 especially when he is also seen holding a slate in his hand on which "F-127 RAJU G+1" is clearly seen to have been written thereby denoting that the said Jhuggi is a multi storey structure. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey Jhuggi No. F-127 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is living on the ground floor of the said double storey Jhuggi No. F-127 whereas his brother Pankaj is living on the first floor and the second floor is used by them jointly but the fact remains that the Appellant/Claimant has claimed allotment against the said triple storey Jhuggi and further the said Jhuggi is used by him for residential purposes.

15. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. F-127 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant was & is still using the said triple storey Jhuggi No. F-127 for residential purposes.

16. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi No. F-127 as per the policy guidelines issued by

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DDA.

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

18. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA 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. 350-201/012.G/ dated 01.07.2023.

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

> **"Part-B**
>
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 33years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.

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6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the 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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20. 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) - REQUIREMNETS OF DOCUMENTS

21. 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.

22. 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 33years 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 - REQUIREMNETS OF DOCUMENTS

23. 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."

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24. 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.

25. 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 33years 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

26. 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.

27. 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

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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.

28. 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".

29. 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 17.08.2033thereby holding that he fulfills the eligibility criteria as per the guidelines issued by DDA because it was held that the applicant

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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 Authority was upheld thereby setting aside the***

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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 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 **C**ards, however, they have not been issued the same by the **C**ompetent **A**uthority. 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***

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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 Ors[2] 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. 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 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.

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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."

30. 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. 213(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.

31. 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.

32. 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.

33. 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

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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.

34. 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.

35. 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

36. 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. F-127 as per the policy guidelines issued by DDA.

37. The Appellant/Claimant has tendered his Voter ID Card No. WHC 3283967 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of his claim.

38. It is pointed out that the Appellant/Claimant has tendered his Voter ID Card bearing number WHC 3283967 (Annexure-A) and it has been issued on 01.11.2019, much after the cut off date of 01.01.2015 and accordingly, the question of his name arising in any of the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a valid Voter ID Card on the cut off date of 01.01.2015 issued on the address of the Jhuggi No. F-127, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further, his name also does not appear in the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant is not entitled for claiming alternate allotment from DDA.

39. The Appellant/Claimant has also tendered the Aadhar Cards (Annexure-E to Annexure-G) of his wife Anshlata and Children Yugnit, Aditya and Ayansh and Electricity Bill (Annexure-H).

40. It is pointed out that the Appellant/Claimant has tendered the Aadhar Card (Annexure-D) of his wife Anshlata but he has not tendered her Voter ID Card to show that she was also having a Voter ID Card issued on the address of the Jhuggi No. F-127, regarding which the Appellant/Claimant is claiming allotment from DDA and further, no Voter List has been

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placed on file to show that his wife had used her Voter ID Card to cast her vote in any of the elections and more particularly in the years from 2012 to 2015. The Electricity Bill (Annexure-H) shows that the Appellant/Claimant has taken the electricity connection on 27.06.2018, much after the cut off date of 01.01.2015. 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 was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. F-127, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

41. 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 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

42. 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 present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. F-127, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. 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 survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents

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and does not fulfill the eligibility criteria as per the guidelines issued by DDA. 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-H, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her 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.

43. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-201/012.G/ dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

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

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 79 of 2024

Date of Institution: 12.07.2023

Date of Order: 27.05.2024

Present: Appellant/ Claimant Manoj S/o Suiresh

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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. F-78, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. F-78 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative

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allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-54/37.G/ dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 79 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 01.04.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-H, 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. Dilshad Ahemad, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. F-78 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. F-78 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Manoj has been recorded before us on 01.04.2024, wherein he has stated that he is married with Poonam and having two children, Kartik & Payal. Both the children are unmarried.

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9. The Appellant/Claimant has stated that he is having double storey Jhuggi No. F-78 and it comprises of one room on each floor and further the room on the ground floor is used for residential purposes whereas the room on the first floor is used as kitchen and further, a bamboo ladder is placed outside in the gali and it is used for going from the ground floor to the upper floor.

10. The Appellant/Claimant has stated that he has sought allotment from DDA against the double storey Jhuggi No. F-78 but his claim was rejected by Eligibility Determination Committee on the ground that his Voter ID Card could not be verified and further he has claimed allotment from DDA against the first floor in spite of the fact that he was having all the requisite documents as per policy guidelines issued by DDA and he has sought allotment against the said double storey Jhuggi and accordingly aggrieved by the same he has filed the present Appeal No. 79 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-H, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished survey records along with one video clip of Jhuggi No. F-78. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. F-78 on 18.03.2020 on the ground floor of the said Jhuggi and his photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

12. DDA has furnished the survey records along with one video clip of Jhuggi No. F-78. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 01.04.2024 wherein the Appellant/Claimant has stated the video clip pertains to the Jhuggi No. F-78 in which the Jhuggi No. F-78 is clearly seen to be a double storey structure from outside and further, the Appellant/Claimant is seen and getting the survey conducted and his room & kitchen are seen and further, he is also seen holding a slate in his hand on which "F-78 MANOJ G+1" is clearly seen to have been written.

13. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the double storey Jhuggi No. F-78. Thus the statement of the

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Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. F-78 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is living in the said double storey Jhuggi No. F-78 and using the same for residential purposes.

14. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. F-78 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant was & is still using the said double storey Jhuggi No. F-78 for residential purposes.

15. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi No. F-78 as per the policy guidelines issued by DDA.

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

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

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rejection order bearing No. 350-54/37.G/ dated 01.07.2023.

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

> **"Part-B**
>
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 33years 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.
>
> **<u>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:</u>**
>
> - Passport.
> - Ration Card with photograph.

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

19. 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) - REQUIREMNETS OF DOCUMENTS

20. 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.

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21. 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 33years 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 - REQUIREMNETS OF DOCUMENTS

22. 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."

23. 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.

24. 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 33years 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

25. 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

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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.

26. 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.

27. 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".

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28. 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 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

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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 19.07.2033was 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. 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."*

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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 **C**ards, however, they have not been issued the same by the **C**ompetent **A**uthority. 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

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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 Ors[2] 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*

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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.

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

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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 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 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.

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

29. 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. 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.

30. 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.

31. 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

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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.

32. 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.

33. 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

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before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered.

34. 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

35. 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. F-78 as per the policy guidelines issued by DDA.

36. The Appellant/Claimant has tendered his Voter ID Card No. WHC2337566 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of his claim.

37. It is pointed out that the Voter ID Card No. WHC2337566 (Annexure-A) of the Appellant/Claimant has been issued on 04.04.2019, much after the cutoff date 01.01.2015 and accordingly, the question of his name arising in any of the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a valid Voter ID Card on the cut off date of 01.01.2015 issued on the address of the Jhuggi

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No. F-78, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further, his name also does not appear in the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant is not entitled for claiming alternate allotment from DDA.

38. The Appellant/Claimant has tendered the Voter ID Card No. WHC2346757 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Poonam, the Electricity Bill (Annexure-G) and Ration Card (Annexure-H) in support of his claim.

39. It is pointed out that the Voter ID Card No. WHC2346757 (Annexure-D) of his wife Poonam has been issued on 05.04.2019, much after the cutoff date 01.01.2015 accordingly, the question of her name arising in any of the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. This accordingly shows that neither the Appellant/Claimant nor his wife Poonam were having a valid Voter ID Card on on the cut off date of 01.01.2015 issued on the address of the Jhuggi No. F-78, regarding which he is claiming allotment from DDA and furthermore, their names also does not appear in the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The Electricity Bill (Annexure-G) shows that the electricity connection has been taken by the Appellant/Claimant on 10.03.2006. Furthermore, the Ration Card No. 077005265292 (Annexure-H) has been issued in favour of his wife Poonam on 19.08.2020, much after the cutoff date 01.01.2015 and the name of the Appellant/Claimant is also 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 was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. F-78, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

40. 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

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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 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

41. 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 present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. F-78, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. 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 survey conducted 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. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her 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-H, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her 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.

42. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-54/37.G/ dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

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

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 197 of 2024

Date of Institution: 19.07.2023

Date of Order: 27.05.2024

Present: Appellant/ Claimant Ranjeet S/o Paras Nath

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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. D-34, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-34 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has

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rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-33/002.G/ dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 197 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 19.04.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-E, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. 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. D-34 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. D-34 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Ranjeet has been recorded before us on 19.04.2024 wherein he has stated that his parents, Paras Nath & Gita, are having two sons; Bharat Ram & Ranjeet and one daughter; Sashikala. All the children except Ranjeet are

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married. Shashi Kala is married with Jitender and she is living in her matrimonial home in Azamgarh, Uttar Pradesh. Bharat Ram is married with Nisha and having two children; Riyansh & Nimmo. Ranjeet (Appellant/Claimant) is unmarried.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi bearing No. D-34 and it comprises of two rooms on the ground floor and one room on the first floor and a pucca staircase constructed in the adjoining Jhuggi has been used jointly by them for going to the upper floor of their Jhuggi. The room on the first floor has been rented out to tenant.

10. The Appellant/Claimant has stated that his parents, Paras Nath & Gita, along with the family of their son Bharat Ram are living in one of the rooms on the ground floor and regarding that DDA has made allotment in favour of his father Paras Nath. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he is living in the second room on the ground floor of the Jhuggi No. D-34. The Appellant/Claimant has sought allotment from DDA against the said room on the ground floor of the Jhuggi No. D-34 but his claim has been rejected by the Eligibility Determination Committee on the ground that his Voter ID Card could not be verified and further he was found to be living on the upper floor in spite of the fact that he is having requisite documents as per the policy guidelines issued by DDA and further he is living on the ground floor and accordingly, aggrieved by the same, he has filed the present Appeal No. 197 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-E, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished survey records along with one video clip of Jhuggi No. D-34. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. D-34 on 18.03.2020 on the ground floor of the said Jhuggi and his photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

13. DDA has furnished survey record along with two video clips pertaining to the Jhuggi No. D-

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34. The videos were played before the Appellant/Claimant when his statement was recorded before us on 19.04.2024 wherein he has stated that the first video clip pertains to the first room of the Jhuggi No. D-34 in which the Jhuggi No. D-34 is clearly seen to be a double storey pucca structure from outside and further, his father Paras Nath is seen and getting the survey conducted in the first room on the ground floor and his room & kitchen are also seen and further, he is also seen holding a slate in his hand on which "D-34 PARAS NATH G+1" is clearly seen to have been written. The second video clip pertains to second room on the ground floor in which the Jhuggi No. D-34 is clearly seen to be a double storey structure from outside and further, the Appellant/Claimant is seen and getting the survey conducted and his room & kitchen are also seen and further, he is also seen holding a slate in his hand on which "D-34 RANJEET G+1" is clearly seen to have been written.

14. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the double storey Jhuggi No. D-34 especially when in the video clip prepared by DDA the Jhuggi No. D-34 is clearly seen to be a double storey pucca structure from outside and further he and his father Paras Nath are seen and getting the survey conducted of two separate rooms on the ground floor and they are is also seen holding a slate in their hands on which "D-34 PARAS NATH G+1" and "D-34 RANJEET G+1" respectively is clearly seen to have been written thereby denoting that the said Jhuggi is a double storey structure. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. D-34 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and his parents, Paras Nath & Gita, are living in one of the rooms on the ground floor and regarding that DDA has made allotment in favour of his father Paras Nath and further the Appellant/Claimant is living in the second room on the ground floor of the said double storey Jhuggi No. D-34 whereas the first floor is rented out but the fact remains that the Appellant/Claimant has claimed allotment against the ground floor of the said double storey Jhuggi and further the ground floor is used by him for residential purposes.

15. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. D-34 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant was & is still using the said double storey Jhuggi No. D-34 for residential purposes.

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16. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi No. D-34 as per the policy guidelines issued by DDA.

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

18. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA 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. 350-33/002.G/ dated 01.07.2023.

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 33years of age.

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

<u>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:</u>

- 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.

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- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (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."

20. 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) - REQUIREMNETS OF DOCUMENTS

21. 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.

22. 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 33years 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.

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FIRST FLOOR - REQUIREMNETS OF DOCUMENTS

23. 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."

24. 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.

25. 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 33years 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

26. 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

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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.

27. 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.

28. 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".

29. 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

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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 17.08.2033thereby 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 17.08.2018was 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 19.07.2018thereby 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 19.07.2033was 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

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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. 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 introspected into the intent and motive behind issuing of the Ration Card which is

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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 Ors[2] 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

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

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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."

30. 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

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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.

31. 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.

32. 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.

33. 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

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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.

34. 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.

35. 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

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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

36. 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. D-34 as per the policy guidelines issued by DDA.

37. The Appellant/Claimant has tendered his Voter ID Card No. WHC 2264207 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of his claim.

38. It is pointed out that the Appellant/Claimant has tendered his Voter ID Card bearing number WHC 2264207 (Annexure-A) and it has been issued on 07.07.2017, much after the cut off date of 01.01.2015 and accordingly, the question of his name arising in any of the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a valid Voter ID Card on the cut off date of 01.01.2015 issued on the address of the Jhuggi No. D-34, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further, his name also does not appear in the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant is not entitled for claiming alternate allotment from DDA.

39. The Appellant/Claimant has also tendered the Electricity Bill (Annexure-D) and Passbook of Bandhan Bank (Annexure-E) in support of his claim.

40. It is pointed out that the Appellant/Claimant has tendered the Electricity Bill (Annexure-D) and it shows that the Appellant/Claimant has taken the electricity connection on the address of the Jhuggi No. D-34 on 11.05.2023, much after the cut off date of 01.01.2015. Furthermore, the Passbook of Bandhan Bank (Annexure-E) shows that the

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Appellant/Claimant had opened the account on 16.12.2017, much after the cut off date of 01.01.2015. 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 was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. D-34, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

41. 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 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

42. 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 present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. D-34, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. 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 survey conducted 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. 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

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a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-E, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her 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.

43. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-33/002.G/ dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 60 of 2024

Date of Institution: 12.07.2023

Date of Order: 28.05.2024

Present: Appellant/ Claimant Sonu Verma S/o Chedi Lal Verma

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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. H-203, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. H-203 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the

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Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-205/30.G/ dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 60 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 26.03.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-F, 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. H-203 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. H-203 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Sonu Verma has been recorded before us on 26.03.2024, wherein he has stated that his parents, Chhedi Lal Verma and Gulab Kali, are having three sons, Sonu, Monu & Ronu. Chhedil Lal Verma had expired in the year 2008.

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Monu & Ronu are unmarried. Sonu (Appellant/Claimant) is married with Punam Devi and having one son, Ansh.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. H-203 and it comprises of one room on each floor and a wooden ladder is placed outside in the gali and it is used for going from the ground floor to the upper floor.

10. The Appellant/Claimant has stated that the entire family was living jointly in the Jhuggi No. H-203. His widow mother, Gulab Kali along with her unmarried sons, Monu & Ronu is living on the ground floor of the Jhuggi No. H-203 whereas the Appellant/Claimant along with his family is living on the first floor of the Jhuggi No. H-203. However, after the death of his father, his mother Gulab Kali had shifted to her native village for some time and during this period he had shifted to the ground floor of the Jhuggi No. H-203.

11. The Appellant/Claimant has stated that he has sought allotment from DDA against the double storey Jhuggi No. H-203 but his claim was rejected by Eligibility Determination Committee on the ground that his Voter ID Card could not be verified and further he has claimed allotment from DDA against the first floor in spite of the fact that he was having all the requisite documents as per policy guidelines issued by DDA and he has sought allotment against the said double storey Jhuggi and accordingly aggrieved by the same he has filed the present Appeal No. 60 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered document, Annexure-A to Annexure-F, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished survey records along with one video clip of Jhuggi No. H-203. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. H-203 on 19.04.2020 on the ground floor of the said Jhuggi and his photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

13. DDA has furnished the survey records along with one video clip of Jhuggi No. H-203. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 26.03.2024 wherein the Appellant/Claimant has stated the video clip pertains

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to the Jhuggi No. H-203 in which the Jhuggi No. H-203 is clearly seen to be a double storey structure from outside and a bamboo ladder is seen, which is used for going to the upper floor. Further, the Appellant/Claimant is seen and getting the survey conducted and his room & kitchen are seen and further, he is also seen holding a slate in his hand on which "H-203 SONU VERMA G+1" is seen to have been written.

14. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the double storey Jhuggi No. H-203. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. H-203 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is living in the said double storey Jhuggi No. H-203 and using the same for residential purposes.

15. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. H-203 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant was & is still using the said double storey Jhuggi No. H-203 for residential purposes.

16. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi No. H-203 as per the policy guidelines issued by DDA.

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

18. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same

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will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a 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. 350-205/30.G/ dated 01.07.2023.

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 33years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.

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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."

20. 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

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allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNETS OF DOCUMENTS

21. 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.

22. 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 33years 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 - REQUIREMNETS OF DOCUMENTS

23. 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."

24. 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.

25. Thus the bare perusal of the Policy shows that for claiming allotment against the first **floor**

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the JJ dwellers must be a citizen of India and not less than 33years 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

26. 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.

27. 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

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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.

28. 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".

29. 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 &

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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 17.08.2018was 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 19.07.2018thereby 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 19.07.2033was 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*

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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 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 **C**ards, however, they have not been issued the same by the **C**ompetent **A**uthority. 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:*

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"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 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

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the Division Bench of this Court in the judgment of ***Udal v. Delhi Urban Shelter Improvement Board and Ors[2] 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 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.

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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 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

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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."

30. 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. 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.

31. 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

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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.

32. 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.

33. 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

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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.

34. 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.

35. 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.

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GIST OF THE POLICY

36. 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. H-203 as per the policy guidelines issued by DDA.

37. The Appellant/Claimant has tendered his Voter ID Card No. SQN 1963537 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of his claim.

38. It is pointed out that the Voter ID Card No. SQN 1963537 (Annexure-A) of the Appellant/Claimant has been issued on 02.07.2022, much after the cutoff date 01.01.2015 and accordingly, the question of his name arising in any of the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a valid Voter ID Card on the cut off date of 01.01.2015 issued on the address of the Jhuggi No. H-203, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further, his name also does not appear in the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant is not entitled for claiming alternate allotment from DDA.

39. The Appellant/Claimant has tendered the Passbook of Bank of Baroda (Annexure-D), Electricity Bill (Annexure-E) and Application dated 08.08.2023 (Annexure-F) for issuance of Ration Card in support of his claim.

40. It is pointed out that the Passbook of Bank of Baroda (Annexure-D) shows that the Appellant/Claimant had opened the account on 12.10.2020 much after the cutoff date 01.01.2015. The Electricity Bill (Annexure-E) shows that the Appellant/Claimant had taken electricity connection on 06.03.2009. Furthermore, the Application dated 08.08.2023 (Annexure-F) shows that the Applicant/Claimant had made an Application for issuance of Ration Card. However, the Appellant/Claimant has admitted that till now no Ration Card has been issued in his favour. It is pointed out that the Appellant/Claimant has not tendered Voter ID Card of his wife Poonam Devi to show that she was having a valid Voter ID Card on

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the cut off date of 01.01.2015 issued on the address of the Jhuggi No. H-203, regarding which the Appellant/Claimant is claiming allotment from DDA and furthermore, the Aadhar Card of his wife Poonam Devi & son Ansh have also not been tendered to show that his family members were having documents issued on the address of the Jhuggi No. H-203, regarding which the Appellant/Claimant is claiming allotment from DDA. 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 was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. H-203, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

41. 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 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

42. 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 present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. H-203, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. 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 survey conducted on the basis of wrong and false

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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. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her 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-F, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her 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.

43. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-205/30.G/ dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary**

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

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 44 of 2024

Date of Institution: 11.07.2023

Date of Order: 28.05.2024

Present: Appellant/ Claimant Anil Kumar S/o Ram 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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-159, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-159 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has

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rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-120/7.G/ dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 44 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam Meena, 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-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. 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-159 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. A-159 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Anil Kumar has been recorded before us on 22.03.2024, wherein he has stated that he is married with Subhanti and having one son, Vansh.

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9. The Appellant/Claimant has stated that he is having a single storey Jhuggi No. A-159 and it comprises of one room but in the year 2015 it was converted into double storey structure as he had placed a chappar by covering it with Tirpal on its first floor and has also placed a bamboo ladder outside in the gali and it has been used for going from to the ground floor to the upper floor. But the fact remains that on the cutoff date of 01.01.2015 Jhuggi No. A-159 was a single storey structure.

10. The Appellant/Claimant has stated that he has sought allotment from DDA against the Jhuggi No. A-159 but his claim was rejected by Eligibility Determination Committee on the ground that his Voter ID Card could not be verified and that he has sought allotment against upper floor in spite of the fact that he is having all the requisite documents and further he has claimed allotment from DDA against the single storey Jhuggi and accordingly aggrieved by the same he has filed the Appeal No. 44 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-I, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished survey records along with one video clip of Jhuggi No. A-159. As per survey records the survey was got conducted by Subhanti, who is the wife of the Appellant/Claimant of Jhuggi No. A-159 on 17.03.2020 on the ground floor of the said Jhuggi and the photograph of his wife is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography Subhanti, who is the wife of the Appellant/Claimant was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

12. DDA has furnished the survey records along with one video clip of Jhuggi No. A-159. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 22.03.2024 wherein the Appellant/Claimant has stated the video clip pertains to the Jhuggi No. A-159 in which the Jhuggi No. A-159 is clearly seen to be a double storey structure from outside and a Tirpal/chappar is seen on the first floor and further, his wife Subhanti is seen and getting the survey conducted and their room & kitchen are seen and further, she is also seen holding a slate in his hand on which "A-159 ANIL KUMAR G" is clearly seen to have been written.

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13. It is pointed out that the Appellant/Claimant has stated that on the cutoff date 1.01.2015 Jhuggi No. A-159 was a single storey pucca structure but in the year 2015 it was converted into double storey structure as he had placed a chappar thereby covering it with Tirpal on its first floor. Thus, the Jhuggi No. A-159 was a pucca single storey structure on the cutoff date 01.01.2015.

14. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the double storey Jhuggi No. A-159. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the single storey Jhuggi No. A-159 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 but in the year 2015 it was converted into double storey structure and the Appellant/Claimant is living in the said double storey Jhuggi No. A-159 and using the same for residential purposes.

15. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. A-159 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 but in the year 2015 it was converted into double storey structure and the Appellant/Claimant was & is still using the said double storey Jhuggi No. A-159 for residential purposes.

16. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi No. A-159 as per the policy guidelines issued by DDA.

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

18. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same

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will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a 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. 350-120/7.G/ dated 01.07.2023.

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 33years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.

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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."

20. 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

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allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNETS OF DOCUMENTS

21. 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.

22. 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 33years 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 - REQUIREMNETS OF DOCUMENTS

23. 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."

24. 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.

25. Thus the bare perusal of the Policy shows that for claiming allotment against the first **floor**

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the JJ dwellers must be a citizen of India and not less than 33years 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

26. 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.

27. 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

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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.

28. 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".

29. 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

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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*

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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 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*

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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 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 Ors[2] 2017 SCC OnLine Del 9715*** *as follows:*

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"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 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.

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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 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

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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."

30. 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. 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.

31. 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

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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.

32. 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.

33. 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

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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.

34. 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.

35. 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

36. 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,

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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-159 as per the policy guidelines issued by DDA.

37. The Appellant/Claimant has tendered his Voter ID Card No. WHC 2191708 (Annexure-A), Aadhar Card (Annexure-B) & PAN Card (Annexure-C) in support of his claim.

38. It is pointed out that the Voter ID Card No. WHC 2191708 (Annexure-A) of the Appellant/Claimant has been issued on 18.12.2015, much after the cutoff date 01.01.2015 and accordingly, the question of his name arising in any of the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a valid Voter ID Card on the cut off date of 01.01.2015 issued on the address of the Jhuggi No. A-159, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further, his name also does not appear in the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant is not entitled for claiming alternate allotment from DDA.

39. The Appellant/Claimant has also tendered Voter ID Card No. WHC 3654779 (Annexure-D), & Aadhar Card (Annexure-E) of his wife Subhanti, Electricity Bill (Annexure-F), Ration Card No. 077005282320 (Annexure-G), the Passbook of Karnatka Bank (Annexure-H) and the Passbook of Indusand Bank (Annexure-I) in support of his claim.

40. It is pointed out that the Voter ID Card No. WHC 3654779 (Annexure-D) of his wife Subhanti has been issued on 13.02.2023, much after the cutoff date 01.01.2015 and accordingly, the question of her name arising in any of the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. The material placed on file shows that neither the Appellant/Claimant nor his wife Subhanti were having a valid Voter ID Card on on the cut off date of 01.01.2015 issued on the address of the Jhuggi No. A-159, regarding which the Appellant/Claimant is claiming allotment from DDA and furthermore, their names also does not appear in the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Further, the Electricity Bill (Annexure-F) shows that the Appellant/Claimant had taken electricity connection on

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03.12.2014. The Ration Card No. 077005282320 (Annexure-G) has been issued on 04.01.2021 in favour of the Appellant/Claimant but it is pertinent to point out that the name of his wife and son are conspicuously missing and further, this Ration Card No. 077005282320 (Annexure-G) has been issued on 04.01.2021, much after the cutoff date 01.01.2015. The Passbook of Karnataka Bank (Annexure-H) shows that the Appellant/Claimant had opened the account but the date of opening of account is given in this document. The Passbook of Indusind Bank (Annexure-I) shows that the Appellant/Claimant had opened the account on 28.12.2014. 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 was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. A-159, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

41. 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 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

42. 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 present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. A-159, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria

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as per the 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 survey conducted 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. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her 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-I, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her 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.

43. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-120/7.G/ dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 82 of 2024

Date of Institution: 12.07.2023

Date of Order: 29.05.2024

Present: Appellant/ Claimant Leela Devi W/o Jitender

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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. CN-123, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. CN-123 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has

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rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-20/0040.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 82 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 01.04.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Dilshad Ahemad, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's single storey Jhuggi bearing No. CN-123 was found to exist but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. CN-123 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Leela has been recorded before us on 01.04.2024 wherein she has stated that she is married with Jitender and having four children, Rishab, Pratima, Pratibha & Anshika. All the children are unmarried.

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9. The Appellant/Claimant has stated that she is having a double storey Jhuggi No. CN-123 and it comprises of one room on each floor and a bamboo ladder is placed outside in the gali and it is used for going from the ground floor to the upper floor.

10. The Appellant/Claimant has stated that she has sought allotment from DDA against the double storey Jhuggi No. CN-123 but her claim was rejected by Eligibility Determination Committee on the ground that her Voter ID Card could not be verified and that she has sought allotment against the upper floor in spite of the fact that she is having all the requisite documents and further she has claimed allotment from DDA against the double storey Jhuggi and accordingly aggrieved by the same she has filed the present Appeal No. 82 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-M, in support of her claim and prayed that DDA be directed to make allotment in her favour.

11. DDA has furnished survey records along with one video clip of Jhuggi No. CN-123. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. CN-123 on 17.03.2020 on the ground floor of the said Jhuggi and her photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

12. DDA has furnished survey record along with one video clip pertaining to the Jhuggi No. CN-123. The video was played before the Appellant/Claimant when her statement was recorded before us on 01.04.2024 wherein she has stated that the video clip pertains to the Jhuggi No. CN-123 in which the Jhuggi is clearly seen to be a pucca Jhuggi and the Appellant/Claimant is seen and getting the survey conducted and her room & kitchen are also seen and further, she is also seen holding a slate in her hand on which "E-53 (CN-123) LEELA DEVI G+1" is clearly seen to have been written and further, she is also heard making a statement that her Jhuggi is a double storey structure and both the floors are occupied by her family.

13. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the double storey Jhuggi No. CN-123. Thus the statement of the

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Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. CN-123 is in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the same for residential purposes.

14. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. CN-123 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes.

15. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the double storey Jhuggi No. CN-123 as per the policy guidelines issued by DDA.

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

17. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-20/0040.G dated 01.07.2023.

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

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

1. The JJ dwellers must be a citizen of India and not less than 99years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

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

- Passport.
- Ration Card with photograph.

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

19. 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) - REQUIREMNETS OF DOCUMENTS

20. 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.

21. Thus the bare perusal of the Policy shows that for claiming allotment against the **ground**

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floor the JJ dwellers must be a citizen of India and not less than 99years 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 - REQUIREMNETS OF DOCUMENTS

22. 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."

23. 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.

24. 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 99years 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

25. 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

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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.

26. 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.

27. 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".

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28. 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 17.08.2018thereby 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 17.08.2018was 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 19.07.2099thereby 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

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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. 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*

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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 **C**ards, however, they have not been issued the same by the **C**ompetent **A**uthority. 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.

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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 Ors[2] 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*

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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.

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

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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 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 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."

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29. 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. 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.

30. 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.

31. 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

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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.

32. 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.

33. 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.

34. 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

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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

35. 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 double storey Jhuggi No. CN-123 as per the policy guidelines issued by DDA.

36. The Appellant/Claimant has tendered her Voter ID Card No. WHC2182756 (Annexure-A), Aadhar Card (Annexure-B) & PAN Card (Annexure-C) in support of her claim.

37. it is pointed out that the Voter ID Card No. WHC2182756 (Annexure-A) of the Appellant/Claimant has been issued on 01.12.2015, much prior to the cutoff date 01.01.2015 and accordingly, the question of her name appearing in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. CN-123 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the

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eligibility criteria as per the guidelines issued by DDA.

38. The Appellant/Claimant has tendered two Voter ID Cards (Annexure-D & Annexure-E), Aadhar Card (Annexure-F) & Driving License (Annexure-G) of her husband Jitender, the Electricity Bill (Annexure-H), Ration Card (Annexure-I), the Passbook of SBI (Annexure-J), the Passbook of Union Bank (Annexure-K) and the Birth Certificate (Annexure-L) of her daughter Pratima in support of her claim.

39. It is pointed out that the Appellant/Claimant has tendered two Voter ID Cards (Annexure-D & Annexure-E) of her husband Jitender. The first Voter Id Card (Annexure-D) of her husband Jitender is bearing number JPF 0783944 and it has been issued on 29.07.2003, much prior to the cutoff date 01.01.2015. Further, the name of her husband Jitender also appears at Sl. No. 791 in the Voter List of the year 2008. It is also pointed out that the second Voter ID Card (Annexure-E) of her husband Jitedner is bearing number WHC 2946880 and it has been issued on 22.01.2020, much after the cutoff date 01.01.2015. The Appellant/Claimant has failed to explain the reasons for having got two Voter ID Cards (Annexure-D & Annexure-E) issued by her husband Jitender and this creates doubt and suspicion.

40. It is also pointed out that the Driving License (Annexure-G) of her husband Jitender has been issued on 17.08.2021, much after the cutoff date 01.01.2015. The Electricity Bill (Annexure-H) shows that the electricity connection has been taken by her husband Jitender on 19.02.2009. Ration Card No. 077002571581 (Annexure-I) has been issued in favour of the Appellant/Claimant on 08.01.2015, much after the cutoff date 01.01.2015. The Passbook of SBI (Annexure-J) shows that her husband Jitender had opened the account on 13.04.2012. The Passbook of Union Bank (Annexure-K) shows that the Appellant/Claimant had opened the account on 09.02.2023. Further, the Birth Certificate (Annexure-L) of her daughter Pratima has been issued on 20.07.2009. 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 her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. CN-123 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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41. 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 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

42. 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 present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. CN-123 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. 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 survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her 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-M, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her 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.

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

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There is no infirmity and illegality in the impugned order bearing No. 350-20/0040.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

44. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.20232passed by Hon'ble High Court of Delhi in WP(C) No. 6728/20232and C.M. Appeal 25594/20232titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 66 of 2024

Date of Institution: 12.07.2023

Date of Order: 29.05.2024

Present: Appellant/ Claimant Gudiya W/o Shankar Mahta

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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. D-84, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-84 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly

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communicated its order bearing No. 350-82/04.1 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 66 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 27.03.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. 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 on the first floor bearing Jhuggi No. D-84 was found to exist but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi No. D-84 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Gudiya has been recorded before us on 27.03.2024 wherein she has stated that her in-laws, Ishwar Mahto & Chandrakala Devi, are having three sons, Shambhu, Shankar & Shibu and one daughter Puja. All the children except Shibu are married. Puja is married with Shatrughan and she is living in her matrimonial home in Bihar.

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Shambhu is married with Ram Dai and having two children. Shankar is married Gudiya (Appellant/Claimant) and having three children, Puran, Jyoti & Tulsi.

9. The Appellant/Claimant has stated that her in-laws, Ishwar Mahto & Chandrakala Devi, are having a double story Jhuggi No. D-84 and it comprises of one room on the ground floor and two rooms on the first floor and an iron ladder is placed outside in the gali and it is used for going from the ground floor to the upper floor.

10. The Appellant/Claimant has stated that her in-laws, Ishwar Mahto & Chandrakala Devi, along with their unmarried son, Shibu are living on the ground floor of the Jhuggi No. D-84 and regarding that DDA has made allotment in favour of her mother-in-law Chandrakala Devi. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that Shambhu along with his wife Ram Dai & two children is living in the first room on the first floor of the Jhuggi No. D-84 and regarding that DDA has made allotment in favour of Shambhu. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that she along with her husband Shankar and all the three children, Puran, Jyoti & Tulsi, is living in the second room on the first floor of the Jhuggi No. D-84. The Appellant/Claimant has sought allotment from DDA against the Jhuggi on the first floor of the said Jhuggi No. D-84 but her claim was rejected by Eligibility Determination Committee on the ground that her Jhuggi was found on the upper floor in spite of the fact that she was having all the requisite documents as per the policy guidelines issued by DDA and accordingly aggrieved by the same she has filed the present Appeal No. 66 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-K, in support of her claim and prayed that DDA be directed to make allotment in her favour.

13. DDA has furnished survey records along with one video clip of Jhuggi No. D-84. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. D-84 on 18.03.2020 on the ground floor of the said Jhuggi and her photograph as well as the family photograph are also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducting of survey / videography the Appellant/Claimant was very much present and she had got the survey / videography conducted and the video clip is also attached in token thereof.

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14. DDA has furnished survey record along with one video clip pertaining to the Jhuggi No. D-84. The video was played before the Appellant/Claimant when her statement was recorded before us on 27.03.2024 wherein she has stated that the video clip pertains to the Jhuggi No. D-84 in which the Appellant/Claimant is seen and getting the survey conducted on the first floor of the Jhuggi No. D-84 and her room & kitchen are also seen and further, she is also seen holding a slate in her hand on which "D-84 GUDIYA F. F." is clearly seen to have been written.

15. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the Jhuggi of the Appellant/Claimant on the first floor bearing Jhuggi No. D-84. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the first floor Jhuggi No. D-84 is in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the first floor of the said Jhuggi for residential purposes.

16. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. D-84 was in existence in the Jailorwala Bagh, Ashok Vihar and the Appellant/Claimant was living on the first floor of the said Jhuggi on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes.

17. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi No. D-84 as per the policy guidelines issued by DDA.

18. 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 her claim and prayed that DDA be directed to make allotment in her favour.

19. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of 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

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allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-82/04.1 dated 01.07.2023.

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

> **"Part-B**
>
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 99years 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."

21. 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) - REQUIREMNETS OF DOCUMENTS

22. 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

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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.

23. 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 99years 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 - REQUIREMNETS OF DOCUMENTS

24. 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."

25. 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.

26. 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 99years 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

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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

27. 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.

28. 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.

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29. 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".

30. 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

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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 19.07.2099thereby 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 19.07.2099was 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. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food*

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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 **C**ards, however, they have not been issued the same by the **C**ompetent **A**uthority. 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

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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 Ors[2] 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*

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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 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

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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 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.

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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."

31. 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. 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.

32. 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.

33. 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

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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.

34. 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.

35. 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

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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.

36. 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

37. 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. D-84 as per the policy guidelines issued by DDA.

38. The Appellant/Claimant has tendered her Voter ID Card No. WHC 2150159 (Annexure-A), Aadhar Card (Annexure-B) & PAN Card (Annexure-C) in support of her claim.

39. It is pointed out that the Voter ID Card No. WHC 2150159 (Annexure-A) of the Appellant/Claimant has been issued on 23.01.2015, much after the cutoff date 01.01.2015

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and accordingly, the question of her name appearing in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. D-84 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

40. The Appellant/Claimant has tendered Voter ID Card No. WHC 2122307 (Annexure-D), Aadhar Card (Annexure-E), PAN Card (Annexure-F) & Driving License (Annexure-G) of her husband Shankar, the Passbook of Union Bank (Annexure-H), Electricity Bill (Annexure-I), Ration Card No. 077005251519 (Annexure-J) and Internet Report (Annexure-K) in support of her claim.

41. It is pointed out that the Voter ID Card No. WHC 2122307 (Annexure-D) of her husband Shankar has been issued on 26.11.2014 just about one month prior to the cutoff date 01.01.2015. Furthermore, the Appellant/Claimant has not tendered any Voter List to show that her husband had used his Voter ID Card No. WHC 2122307 (Annexure-D) to cast vote in any of the elections. The Driving License (Annexure-G) of her husband Shankar Mahto has been issued on 17.05.2017, much after the cutoff date 01.01.2015. The Passbook of Union Bank (Annexure-H) shows that the Appellant/Claimant had opened the account on 08.02.2017, much after the cutoff date 01.01.2015. The Electricity Bill (Annexure-I) shows that the electricity connection has been taken by her husband Shankar Mahto and the date of Energisation is given to be 08.01.2016, much after the cutoff date 01.01.2015. Furthermore, Ration Card No. 077005251519 (Annexure-J) has been issued in favour of the Appellant/Claimant and the name of her husband is also mentioned and this Ration Card has been issued on 19.10.2019, much after the cutoff date 01.01.2015. Furthermore, the Report (Annexure-K) downloaded from internet shows that Ration Card No. 077005251519 (Annexure-J) was applied on 24.12.2018 by the Appellant/Claimant and it was approved by the concerned authority on 19.10.2019, much after the cutoff date 01.01.2015. This shows that Voter ID Card No. WHC 2122307 (Annexure-D) of her husband Shankar Mahto has been issued just one month prior to the cutoff date 01.01.2015 but all the remaining documents (Annexure-E to Annexure-J) have been issued much after the cutoff date 01.01.2015 and further, Voter ID Card No. WHC 2150159 (Annexure-A) of the Appellant/Claimant was also

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issued on 23.01.2015, much after the cutoff date 01.01.2015 and this shows that the Appellant/Claimant was not living in Jhuggi No. D-84 regarding which she is claiming allotment from DDA but she has concocted a wrong & false story to grab allotment from DDA by hook or crook. 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 her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. D-84 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

42. 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 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

43. 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 present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. D-84 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. 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 survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that

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the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her 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 Appellant/ Claimant do not create any legal right, title and interest in her favour to make her 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.

44. The Appellant/Claimant has made misrepresentation and also futile attempt to suppresmaterial facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-82/04.1 dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

45. 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 11.07.20232passed by Hon'ble High Court of Delhi in WP(C) No. 6728/20232and C.M. Appeal 25594/20232titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 58 of 2024

Date of Institution: 12.07.2023

Date of Order: 30.05.2024

Present: Appellant/ Claimant Jai Chand S/o Banshi Ram

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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. N-22/E-327, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued thereby intimating the dwellers about organizing of a camp by DDA at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. N-22/E-327 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order

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bearing No. 350-64/12.G/ dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 58 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 02.05.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-G, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. 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. N-22E-327 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. N-22/E-327 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Jai Chand has been recorded before us on 02.05.2024 wherein he has stated that his parents, Banshi Ram & Janki, are having four sons, Kailash, Hari Pratap, Dayasham & Jai Chand and four daughters; Dhanji, Sushila, Dhanpali &

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Gyatri. All the children are married. Dhanji is married with Surjan and Dhanpali is married with Ram Bachan and both of them are living in their respective matrimonial homes in District Ghazipur, Uttar Pradesh. Sushila is married with Aminder and she is living in her matrimonial home in Narela, Delhi. Gyatri is married with Pramod and she is living in her matrimonial home in Kundli, Sonepat. Kailash is married with Pramila and having four children and he is living on rent in Azadpur, Delhi. Dayasham is married with Kanchan and having three children and he is living on rent in Jailorwala Bagh. Hari Partap is married with Rinku and having three children. Jai Chand (Appellant/Claimant) is married with Gyanti and having four children; Prince, Ramjain & Ranjit and daughter Sonam. All the sons are unmarried whereas Sonam is married with Abhay Pratap and she is living in her matrimonial home in Ghazipur, Uttar Pradesh.

9. The Appellant/Claimant has stated that his brother Hari Partap is having a double storey Jhuggi bearing No. A-150/1 in Jailorwala Bagh and regarding that Hari Partap has sought alternative allotment from DDA but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 80 of 2024 before the Appellate Authority on 12.07.2023 before the Appellate Authority and the same is still pending there.

10. The Appellant/Claimant has stated that previously he along with his family was living on rent in Jhuggi No. N-22/E-327, Kaushal Puri, Azadpur, Delhi and in the year 2013 he had shifted to the Jhuggi No. A-150, Jailorwala Bagh, Ashok Vihar which is situated adjoining to the Jhuggi No. A-150/1, Jailorwala Bagh of his brother Hari Partap. The Appellant/Claimant has stated that his Jhuggi No. A-150 is a double storey structure and it comprises of one room on each floor and an iron ladder is placed outside in the gali and it is used for going to the upper floor.

11. The Appellant/Claimant has sought allotment from DDA against the said double storey Jhuggi No. A-150 but his claim has been rejected by Eligibility Determination Committee on the ground that his Voter Card could not be verified in spite of the fact that he is having all the requisite documents as per policy guidelines issued by DDA and further, he has sought allotment from DDA against the double storey Jhuggi No. A-150 but in the Rejection Order, the Jhuggi number is wrongly mentioned to be Jhuggi No. N-22/E-327 and accordingly, aggrieved by the same he has filed the present Appeal No. 58 of 2024 before the Appellate

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

12. It is pointed out that both the appeals bearing Appeal No. 58 of 2024 and 108 of 2024 shall be decided separately on their initial merits.

13. DDA has furnished survey records along with one video clip. As per survey records the survey was got conducted by the wife of the Appellant/Claimant on 25.03.2020 against Jhuggi No. N-22/E-327 against Jhuggi ID No. 350-64/12.G and the photograph of his wife is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant is mentioned therein but the column for providing the details of the family members is left vacant. Further, at the time of conducing of survey/videography the Appellant/Claimant was not present and accordingly the survey/videography is not attached in token thereof.

14. DDA has furnished survey record along with one video clip. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 02.05.2024 wherein he has stated that the video clip pertains to the Jhuggi No. A-150/1 in which his brother Hari Partap is seen and getting the survey conducted on the double storey Jhuggi No. A-150/1 and from outside, his Jhuggi is seen to be a double storey structure having an iron ladder placed outside in the gali and used for going to the upper floor and further, his room & kitchen are also seen and further, Hari Partap is also seen holding a state in his hand on which "A-150/1 Hari Partap G+1" is clearly seen to be written. However, no video clip of the Jhuggi of the Appellant/Claimant is available, as he has specifically stated that on the date of survey, he was sick and had gone to the hospital. However, it is pointed out that in the Jailorwala Bagh DDA had conducted extensive survey and the whole exercise had consumed about two to three months and even if the Appellant/Claimant was absent on the date of survey, then he would have made application to DDA authority or to the survey team for getting the survey conducted of his Jhuggi but nothing of this sort was done by him.

15. It is also pointed out that as per the survey records placed on file the Appellant/Claimant has sought allotment from DDA against the Jhuggi No. N-22/E-327 but his claim was rejected by Eligibility Determination Committee and the same was conveyed to him vide Rejection Order dated 01.07.2023 in which number of his Jhuggi is mentioned to be N-22/E-327. This

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accordingly falsifies the statement of the Appellant/Claimant wherein he has stated that he has claimed allotment from DDA against the Jhuggi No. A-150 but in the Rejection Order the number of his Jhuggi is wrongly mentioned to be Jhuggi No. N-22/E-327 instead of A-150. The Appellant/Claimant has also stated that previously he along with his family was living on rent in Jhuggi No. N-22/E-327, Kaushal Puri, Azadpur, Delhi and in the year 2013 he had shifted to the Jhuggi No. A-150, which is situated adjoining to the Jhuggi No. A-150/1 of his brother Hari Partap. However, the Appellant/Claimant has not stated as to in which capacity he had shifted to the Jhuggi No. A-150. It is not clear as to whether the Appellant/Claimant had purchased it or he has occupied it on rent as no documents are placed on file. The statement of Appellant/Claimant is vague & evasive in nature because he has simply stated that previously he was living on rent in Jhuggi No. N-22/E-327, Kaushal Puri, Azadpur, Delhi and in the year 2013 he had shifted to the Jhuggi No. A-150. Here it is also pertinent to point out that previously the Appellant/Claimant was living on rent in Jhuggi No. N-22/E-327, Kaushal Puri, Azadpur, Delhi and it cannot be a coincidence that he had claimed allotment from DDA against the Jhuggi of Jailorwala Bagh, which was surprisingly bearing the same number, i.e., Jhuggi No. N-22/E-327 and his claim was rejected by EDC and in the rejection order communicated to him number of his Jhuggi is mentioned to be bearing Jhuggi No. N-22/E-327. Therefore, both the Jhuggis of the Appellant/Claimant situated at Kaushal Puri, Azadpur, Delhi as well as in Jailorwala Bagh, Ashok Vihar bearing same number, i.e., Jhuggi No. N-22/E-327 creates doubt & suspicion and it shows that the Appellant/Claimant had come forward with the story that his Jhuggi at Kaushal Puri, Azadpur, Delhi as well as in Jailorwala Bagh, Ashok Vihar were bearing same number, i.e., Jhuggi No. N-22/E-327 because he wanted to use the documents prepared at the address of Kaushal Puri, Azadpur, Delhi in order to cheat & defraud DDA to grab allotment by hook or crook but when his claim was rejected by EDC, the Appellant/Claimant had tried in futility to change his stand by making a statement before us on 02.05.2024 to the effect that he had in fact sought allotment from DDA against Jhuggi No. A-150, Jailorwala Bagh and not against Jhuggi No. N-22/E-327 Jailorwala Bagh but in the rejection order the number of Jhuggi has been wrongly mentioned to be Jhuggi No. N-22/E-327 Jailorwala Bagh and this was done to grab allotment from DDA by hook or crook because he very much knew that he had procured the documents issued in his name & also in the name of his wife Gyanti on the address of Jhuggi No. A-150, Jailorwala Bagh even though these documents were got issued by him much after

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the cutoff date of 01.01.2015 as discussed by us in detail in the later part of this order herein below. Here it is also pertinent to point out that the Appellant/Claimant has categorically stated that he is having Voter ID Card issued on the address of House No. N-22/E-327, Kaushal Puri, Azadpur, Delhi and further he does not have any Voter Id Card issued on the address of Jhuggi at Jailorwala Bagh regarding which he has been claiming allotment from DDA.

16. It is also pointed out that in the video clip placed on file by DDA, his brother Hari Partap is seen and getting the survey conducted of his adjoining Jhuggi and had the Appellant/Claimant been living separately & independently in the adjoining Jhuggi bearing Jhuggi No. N-22/E-327 (as claimed in the representation made by the Appellant/Claimant) or in Jhuggi No. A-150 (as alleged by the Appellant/Claimant by changing his stand while making statement before us on 02.05.2024) then in that eventuality Hari Partap would have certainly told the survey team of DDA that the adjoining double storey Jhuggi belongs to his brother but due to medical emergency he could not become present for the survey conducted but nothing of this sort was done by Hari Partap. This shows that the Appellant/Claimant had concocted a wrong & false storey to grab allotment from DDA because the Appellant/Claimant on the cutoff date of 01.01.2015 was living on rent in Jhuggi No. N-22/E-327, Kaushal Puri, Azadpur, Delhi and he had shifted to Jailorwala Bagh, Ashok Vihar much after the cutoff date of 01.01.2015 and that is why he has tried to create confusion with regard to whether the number of Jhuggi against which he has been claiming allotment from DDA was bearing Jhuggi No. N-22/E-327 or Jhuggi No. A-150 and this has been done to grab allotment form DDA by hook or crook.

17. As pointed out above, the Appellant/Claimant has stated that previously he along with his family was living on rent in Jhuggi No. N-22/E-327, Kaushal Puri, Azadpur, Delhi and in the year 2013 he had shifted to the Jhuggi No. A-150, which is situated adjoining to the Jhuggi No. A-150/1 of his brother Hari Partap and further he had sought allotment from DDA against the Jhuggi No. A-150 but in the Rejection Order the number of his Jhuggi is wrongly mentioned to be Jhuggi No. N-22/E-327. However, it is pertinent to point out that the Appellant/Claimant has tendered his Voter ID Card No. LTD 0750936 dated 09.02.2016 (Annexure-A), which has been issued on the address of House No. N-22/E-327, Kaushal Puri, Azadpur, Delhi and not on the address of Jhuggi No. A-150, Jailorwala Bagh and this also shows that the Appellant/Claimant was not having a valid Voter ID Card on the cut off date

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of 01.01.2015 issued on the address of the Jhuggi No. A-150, Jailorwala Bagh, but in order to cheat & defraud DDA he has submitted representation to DDA to claim alternative allotment thereby taking a stand that his Jhuggi was bearing Jhuggi No. N-22/E-327 because he wanted to use his Voter ID card, which was issued on the same address but in different locality and when this fraud has been detected then in order to purge the lacunae the Appellant/Claimant has changed his stand when he had appeared before us on 02.05.2025 and stated that he has claimed allotment from DDA against Jhuggi No. A-150, Jailorwala Bagh. But very interestingly he is neither having his Voter ID card issued on the address of Jhuggi No. N-22/E-327, Jailorwala Bagh nor on the address of Jhuggi No. A-150, Jailorwala Bagh as he is having Voter ID Card No. LTD 0750936 dated 09.02.2016 (Annexure-A), which has been issued on the address of House No. N-22/E-327, Kaushal Puri, Azadpur, Delhi. Accordingly, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the policy guidelines issued by DDA.

18. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi No. N-22/E-327 as per the policy guidelines issued by DDA.

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

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

> **"Part-B**
>
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 33years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.

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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.

<u>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:</u>

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

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- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/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."

21. 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) - REQUIREMNETS OF DOCUMENTS

22. 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.

23. 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 33years 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 - REQUIREMNETS OF DOCUMENTS

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24. 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."

25. 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.

26. 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 33years 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

27. 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

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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.

28. 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.

29. 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".

30. 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

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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 17.08.2018thereby 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 17.08.2018was 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 19.07.2033thereby 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 19.07.2018was 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

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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. 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.*

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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 **C**ards, however, they have not been issued the same by the **C**ompetent **A**uthority. 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 Ors[2] 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 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 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."

31. 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

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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. 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.

32. 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.

33. 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

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in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

34. 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.

35. 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.

36. 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

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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

37. 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. N-22E-327 as per the policy guidelines issued by DDA.

38. The Appellant/Claimant has tendered his Voter ID Card No. LTD 0750936 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of his claim.

39. It is pointed out that the Appellant/Claimant has tendered his Voter ID Card No. LTD 0750936 (Annexure-A) and it has been issued on 09.02.2016, much after the cut off date of 01.01.2015 and accordingly, the question of his name arising in any of the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Furthermore, it has been issued on the address of House No. N-22/E-327, Kaushal Puri, Azadpur, Delhi and not on the address of Jailorwala Bagh and accordingly, this document is not relevant to determine the eligibility of the Appellant/Claimant. The Appellant/Claimant has stated that he is having Voter ID Card issued on the address of House No. N-22/E-327, Kaushal Puri, Azadpur, Delhi and further he does not have any Voter Id Card issued on the address of Jhuggi at Jailorwala Bagh regarding which he has been claiming allotment from DDA. The fact remains that the Appellant/Claimant was not having a valid Voter ID Card on the cut off date 01.01.2015 on the address of the Jhuggi No. N-22/E-327, Jailorwala Bagh

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regarding which he is claiming allotment from DDA and further, his name also does not appear in the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey therefore, in that eventuality also the Appellant/Claimant does not fulfill the eligibility criteria as per the policy guidelines issued by DDA.

40. As already pointed out above, the Appellant/Claimant has stated that previously he along with his family was living on rent in Jhuggi No. N-22/E-327, Kaushal Puri, Azadpur, Delhi and in the year 2013 he had shifted to the Jhuggi No. A-150, which is situated adjoining to the Jhuggi No. A-150/1 of his brother Hari Partap and further he had sought allotment from DDA against the Jhuggi No. A-150 but in the Rejection Order the number of his Jhuggi is wrongly mentioned to be Jhuggi No. N-22/E-327. Even if for the sake of argument the change of stand on part of the Appellant/Claimant is taken to be gospel truth that he had sought allotment from DDA against the Jhuggi No. A-150 then also it is of no help to him because his Voter ID Card No. LTD 0750936 dated 09.02.2016 (Annexure-A) has been issued on the address of House No. N-22/E-327, Kaushal Puri, Azadpur, Delhi and not on the address of Jhuggi No. A-150, Jailorwala Bagh and this also shows that the Appellant/Claimant was not having a valid Voter ID Card on the cut off date of 01.01.2015 issued on the address of the Jhuggi No. A-150, Jailorwala Bagh, therefore, in that eventuality also the Appellant/Claimant does not fulfill the eligibility criteria as per the policy guidelines issued by DDA.

41. Therefore, in the light of the material placed one file we have no hesitation in holding that the Appellant/Claimant was not having a valid Voter ID Card on the cut off date of 01.01.2015 issued on the address of the Jhuggi No. N-22/E-327, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further, his name also does not appear in the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant is not entitled for claiming alternate allotment from DDA.

42. The Appellant/Claimant has tendered the Voter ID Card No. WHC 2201472 (Annexure-D) & Aadhar Card (Annexure-E) of his wife Gyanti Devi, Electricity Bill (Annexure-F) and Ration Card No. 077005259502 (Annexure-G) in support of his claim.

43. It is pointed out that the Appellant/Claimant has tendered Voter ID Card No. WHC 2201472 (Annexure-D) of his wife Gyanti and it has been issued on 21.04.2016, much after the cut off date of 01.01.2015, and accordingly the question of her name appearing in any of the Voter

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Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. The Aadhar Card (Annexure-E) of his wife Gyanti Devi has also been issued on 13.09.2015, much after the cut off date of 01.01.2015. Furthermore, the material placed on file shows that neither the Appellant/Claimant nor his wife Gyanti was having a valid Voter ID Card on the cut off date of 01.01.2015 issued on the address of the Jhuggi No. N-22/E-327, Jailor Waia Bagh, regarding which the Appellant/Claimant is claiming allotment from DDA.

44. It is pointed out that the Electricity Bill (Annexure-F) shows that the electricity connection has been taken by the Appellant/Claimant on 20.05.2015, much after the cut off date of 01.01.2015. Further, the Ration Card (Annexure-G) is bearing No. 077005259502 and it has been issued in favour of his wife Gyanti but surprisingly the name of other family members including that of her husband Jai Chand (Appellant/Claimant) is conspicuously missing and further it has been issued on 11.03.2020, much after the cut off date of 01.01.2015. It is also pointed out that the Appellant/Claimant has sought allotment from DDA against the Jhuggi No. N-22/E-327 but all the above mentioned documents (Annexure-D) & Aadhar Card (Annexure-E) of his wife Gyanti Devi, Electricity Bill (Annexure-F to Annexure-G) have been issued on the address of Jhuggi No. A-150 but the fact cannot be lost that all the documents have been issued much after the cut-off date of cut off date of 01.01.2015 in order to corroborate the changed story that the Appellant/Claimant has sought allotment from DDA against Jhuggi No. A-150 but in the survey records as well as in the rejection order the number of his Jhuggi has been wrongly mentioned to be Jhuggi No. N-22/E-327. 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 was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. N-22/E-327, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

45. 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

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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 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

46. 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 categorically admitted that he is having Voter ID Card issued on the address of House No. N-22/E-327, Kaushal Puri, Azadpur, Delhi and further he is not having any Voter Id Card issued on the address of Jhuggi at Jailorwala Bagh regarding which he has been claiming allotment from DDA and accordingly the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. N-22/E-327, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. 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 survey conducted 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. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her 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-G, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her 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.

47. 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

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issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-64/12.G/ dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 108 of 2024

Date of Institution: 13.07.2023

Date of Order: 30.05.2024

Present: Appellant/ Claimant Sandeep Saroj S/o Hari Ram

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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-103/1, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey records, the Appellant/ Claimant's Jhuggi bearing No. A-103/1 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative

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allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-76/9.G/ dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 108 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 13.05.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-F, 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-103/1 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified // Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. A-103/1 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Sandeep Saroj has been recorded before us on 13.05.2024 wherein he has stated that his parents, Hari Ram & Sheela Devi, are having three sons, Shekhar, Roshan & Sandeep and three daughters, Poonam, Renu & Anju. All

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the children are unmarried. The entire family except the present Appellant/Claimant Sandeep is living in their native village in district Azamgarh, Uttar Pradesh whereas the Appellant/Claimant is living in Jailorwala Bagh, Ashok Vihar.

9. The Appellant/Claimant has stated that he had come to Delhi in search for employment in the year 2016-17 and stayed with the family of his uncle Jaggi Saroj in their Jhuggi No. A-103, Jailorwala Bagh, Ashok Vihar. The Jhuggi No. A-103/1 is a single storey structure and regarding that DDA has made allotment in favour of his aunt Sumitra W/o Jaggi Saroj.

10. The Appellant/Claimant has stated that he had purchased the single storey Jhuggi having roof made with asbestos sheet bearing Jhuggi No. A-103/1 for a sale consideration of Rs. 70,000/- in the year 2017 and this Jhuggi No. A-103/1 was situated adjoining to the Jhuggi No. A-103 of his uncle Jaggi Saroj.

11. At the very out set it is pointed out that the admission of the Appellant/Claimant is clincher piece of evidence as he has categorically admitted that he was not living in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 but he had come to live with the family of his uncle Jaggi Saroj in their Jhuggi No. A-103, Jailorwala Bagh, Ashok Vihar in the year 2016-17 and thereafter in the year 2017 he had purchased the single storey Jhuggi No. A-103/1 for a sale consideration of Rs. 70,000/-. Therefore, the Appellant/Claimant is not eligible to get allotment from DDA as per the policy guidelines issued by DDA because admittedly he was not living in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015.

12. The Appellant/Claimant has sought allotment from DDA against the said single storey Jhuggi No. A-103/1 but his claim has been rejected by the Eligibility Determination Committee on the ground that his Voter ID Card could not be verified and also that he had sought allotment against the upper floor in spite of the fact that he is claiming allotment against the single storey Jhuggi No. A-103/1 and further he is having all the requisite documents as per policy guidelines issued by DDA and accordingly, aggrieved by the same he has filed the present Appeal No. 108 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered document, Annexure-A to Annexure-F, in support of his claim and prayed that DDA be directed to make allotment in his favour.

13. DDA has furnished survey records along with one video clip of Jhuggi No. A-103/1. As per survey records the survey was got conducted by the wife of the Appellant/Claimant of Jhuggi No. A-103/1 on 11.04.2020 on the ground floor of the said Jhuggi and further the

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documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein to the effect that he was found to be living alone. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

14. DDA has furnished the survey records along with two video clips of Jhuggi No. A-103/1 The video clip was played before the Appellant/Claimant when his statement was recorded before us on 13.05.2024 wherein the Appellant/Claimant has stated that the first video clip pertains to the Jhuggi No. A-103 in which his aunt Sumitra W/o Jaggi Saroj is seen and further, her room & kitchen are seen and further, she is seen holding a slate in her hand on which "A-103 SUMITRA DEVI GF" is seen to have been written. The second video clip pertains to the Jhuggi No. A-103/1 in which the Appellant/Claimant is seen and getting the survey conducted and in the video clip a single storey Jhuggi is seen having roof made with asbestos sheet and further, he is also heard stating that he is living in the said Jhuggi No. A-103/1 for the last 1-2 years and further, he is also seen holding a slate in his hand on which "A-103/1 SANDEEP SAROJ G.F" is seen to have been written.

15. The admission of the Appellant/Claimant is a clincher piece of evidence because he has specifically admitted that his entire family is living in Azamgarh, Uttar Pradesh and he had come to Delhi in the year 2016-17 in search for employment and stayed in Jhuggi No. A-103 with the family of his uncle Jaggi Saroj. Furthermore, the Appellant/Claimant has admitted that he had purchased the adjoining single storey Jhuggi No. A-103/1 for a sale consideration of Rs. 70,000/- from his uncle Jaggi Saroj in the year 2017. This shows that the Jhuggi No. A-103/1 regarding which the Appellant/Claimant has been claiming allotment from DDA was purchased by him from his uncle Jaggi Saroj in the year 2017 and accordingly, the Appellant/Claimant was not living in the Jhuggi No. A-103/1 on the cutoff date 01.01.2015 because he had come to Delhi in the year 2016-2017, much after the cutoff date 01.01.2015 and further the Appellant/Claimant has admitted that he had started living separately & independently in the single storey Jhuggi No. A-103/1 after it was allegedly purchased by him from his uncle Jaggi Saroj in the year 2017. Thus the material placed on file shows that the Appellant/Claimant was not living in the Jhuggi No. A-103/1 on the cutoff date 01.01.2015. Therefore, we have no hesitation in holding that

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the Appellant/Claimant is not eligible to seek alternative allotment from DDA against single storey Jhuggi No. A-103/1, Jailorwala Bagh as per the policy/guidelines issued by DDA.

16. Now we shall first appraise the material placed on file to determine the eligibility of the Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the said single storey pucca Jhuggi No. A-103/1 as per the policy guidelines issued by DDA.

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

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 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

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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."

19. 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

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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) - REQUIREMNETS OF DOCUMENTS

20. 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.

21. 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 - REQUIREMNETS OF DOCUMENTS

22. 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."

23. Thus Clause 1 (10) of Part–B of the DDA policy makes the requirement of having a ration

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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.

24. 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

25. 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.

26. 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 Jailorwala Bagh, 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

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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 Jailorwala Bagh, 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.

27. 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".

28. 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

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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 Authority was upheld thereby setting aside the impugned***

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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 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 **C**ards, however, they have not been issued the same by the **C**ompetent **A**uthority. In this regard, the Court shall discuss the order of the*

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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 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

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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 Ors[2] 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.

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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 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

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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."

29. 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. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food

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and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

30. 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.

31. 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 On Line Del 9715.

32. 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

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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/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.

33. 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.

34. 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

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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

35. 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 the said single storey Jhuggi No. A-103/1 as per the policy guidelines issued by DDA.

36. The Appellant/Claimant has tendered his Voter ID Card No. WHC3608886 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of his claim.

37. It is pointed out that the Voter ID Card No. WHC3608886 (Annexure-A) of the Appellant/Claimant has been issued on 08.03.2022, much after to the cutoff date 01.01.2015 and accordingly the question of his name arising in any of the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a valid Voter ID Card on the cut off date of 01.01.2015 issued on the address of the Jhuggi No. A-103/1, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further, his name also does not appear in the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant is not entitled for claiming alternate allotment from DDA.

38. The Appellant/Claimant has tendered the Electricity Bill (Annexure-D), the Passbook of SBI (Annexure-E) and Driving License (Annexure-F) in support of his claim.

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39. It is pointed out that the Electricity Bill (Annexure-D) shows that the Appellant/Claimant had taken electricity connection 03.01.2019, much after the cutoff date 01.01.2015. The Passbook of SBI (Annexure-E) shows that the Appellant/Claimant had opened the account on 30.09.2020, much after the cutoff date 01.01.2015 and Driving License (Annexure-F) of the Appellant/Claimant has been issued on 16.04.2021, much after the cutoff date 01.01.2015. 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 was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-103/1 regarding which he has been claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

40. 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 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

41. 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 was not living in the Jhuggi No. A-103/1, Jailorwala Bagh, regarding which he is claiming allotment from DDA on the cutoff date of 01.01.2015 because he has come to live in this Jhuggi after purchasing the same in the year 2017 and furthermore the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-103/1 regarding which he has been claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) &

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also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the 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 survey conducted 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. 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-F, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her 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.

42. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-76/9.G/ dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

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

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 103 of 2024

Date of Institution: 13.07.2023

Date of Order: 31.05.2024

Present: Appellant/ Claimant Sheela W/o Gautam Parsad

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 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. F-88, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. F-88 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative

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allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-109/9.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 103 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 03.04.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-H, 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. Dilshad Ahemad, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's single storey Jhuggi bearing No. F-88 was found to exist but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** 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 to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. F-88 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Sheela has been recorded before us on 03.04.2024, wherein she has stated that she was married with Gautam and having four children, Deepak, Sunny, Roshan & Jyoti. Gautam had expired on 08.05.2014 and his Death Certificate is Annexure-F. All the children are unmarried.

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9. The Appellant/Claimant has stated that she is having a single storey Jhuggi No. F-88 and it comprises of one room. The Appellant/Claimant has sought allotment from DDA against the single storey Jhuggi No. F-88 but her claim has been rejected by the Eligibility Determination Committee on the ground that her Voter ID Card could not be verified and that she has sought allotment against upper floor in spite of the fact that she is having all the requisite documents and further she has claimed allotment from DDA against the single storey Jhuggi and accordingly aggrieved by the same she has filed the present appeal NO. 103 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document Annexure-A to Annexure-H, in support of her claim and prayed that DDA be directed to make allotment in her favour.

10. DDA has furnished survey records along with one video clip of Jhuggi No. F-88. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. F-88 on 19.03.2020 on the ground floor of the said Jhuggi and the photograph of her family members is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

11. DDA has furnished the survey records along with one video clip of Jhuggi No. F-88. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 03.04.2024 wherein she has stated the video clip pertains to the Jhuggi No. F-88 in which the Appellant/Claimant is seen and getting the survey conducted and further, the Jhuggi No. F-88 is clearly seen to be a single storey pucca structure and her room & kitchen are also seen and further, the Appellant/Claimant is seen holding a slate in her hand on which "F-88 SHILA, G.F" is seen to have been written.

12. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the single storey Jhuggi No. F-88. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the single storey Jhuggi No. F-88 is in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the same for residential purposes.

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13. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. F-88 is in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes.

14. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the single storey Jhuggi No. F-88 as per the policy guidelines issued by DDA.

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

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 99years 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

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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."

17. 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

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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) - REQUIREMNETS OF DOCUMENTS

18. 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.

19. 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 99years 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 - REQUIREMNETS OF DOCUMENTS

20. 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."

21. 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

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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.

22. 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 99years 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

23. 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.

24. 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

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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.

25. 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".

26. 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 17.08.2019 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

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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 17.08.2099was 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 19.07.2099thereby 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 19.07.2099was 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: -

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"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 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 **C**ards, however, they have not been issued the same by the **C**ompetent **A**uthority. 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*

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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 discussed actions of the respondent is in clear violation of the petitioners"

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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 Ors[2] 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 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.

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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 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

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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."

27. 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. 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.

28. 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

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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.

29. 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.

30. 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

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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.

31. 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.

32. 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.

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GIST OF THE POLICY

33. 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. F-88 as per the policy guidelines issued by DDA.

34. The Appellant/Claimant has tendered Voter ID Card No. WHC 2162568 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C).

35. It is pointed out that the Voter ID Card No. WHC 2162568 (Annexure-A) of the Appellant/Claimant has been issued on 24.06.2015, much after the cutoff date 01.01.2015 and accordingly the question of her name appearing in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. F-88 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

36. The Appellant/Claimant has tendered Voter ID Card No. JPF 0871962 (Annexure-D), & Aadhar Card (Annexure-E) of her husband Gautam, the Passbook of Allahabad Bank (Annexure-G) and the Electricity Bill (Annexure-H).

37. It is pointed out that the Voter ID Card No. JPF 0871962 (Annexure-D) of her husband Gautam has been issued on 10.11.2005, much prior to the cutoff date 01.01.2015 but it is pointed out that the Appellant/Claimant has not tendered any Voter List to show that her husband Gautam had used his Voter ID Card No. JPF 0871962 (Annexure-D) to cast vote in any of the election and more particularly in the years from 2012 up till his death on 08.05.2014. It is also pointed out that the Passbook of Allahabad Bank (Annexure-G) shows that the Appellant/Claimant had opened the account on 12.12.2018, much after the cutoff

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date 01.01.2015. The Electricity Bill (Annexure-H) shows that the Appellant/Claimant had taken electricity connection on 10.12.2015, much after the cutoff date 01.01.2015. 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 her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. F-88 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

38. 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 and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

39. 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 present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. F-88 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. 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 survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her 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-H, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her 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.

40. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-109/9.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

41. Copy of this order be supplied to both the parties as per rules within three days from the 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 11.07.20232passed by Hon'ble High Court of Delhi in WP(C) No. 6728/20232and C.M. Appeal 25594/20232titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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