

Shabnam Burney vs Union Of India And Ors on 9 May, 2025

Bench: Prathiba M. Singh, Manmeet Pritam Singh Arora

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 9th

+ W.P.(C) 8035/2024 & CM APPLs.52659-60/2024, 52780/2024, 52897/2024, 59162-63/2024, 59345-46/2024, 24290/2025, 28405/2025, CM APPL...../2025 (TO BE NUMBERED), REVIEW PET. 373/2024
SHABNAM BURNEY

..... Petition

Through: Ms. Vrinda Grover, Mr. Prasanna
Ms. Rupali Samuel, Ms. Devika
Tulsiani & Mr. Soutik Banerjee
(M: 9953585631)
Mr. Choudhary Ali Zia Kabir
Sumayya Khatoon, Advs.

versus

UNION OF INDIA& ORS.

.....

Through: Mr. Parvinder Chauhan, Sr. Adv.
Mr. Anuj Chaturvedi, Ms.. Aa
Garg, Advs. with Ms. Harshit
Maheshwari, Pr. Director P.K
Pranav Siroha.
Ms. Prabhsahay Kaur (Standing
Counsel DDA), Ms. Deeksha L.
(Panel Lawyer, DDA), Mr. Adi
Verma, Adv., Ms. Kavya Shukla
Adv., Mr. Rashneet Singh, Ms
Parveen Adv. Officers Present
Chandra Sharma (Deputy Direc
Vishwajeet Gahlot (AD PMAY)
Mr. Sumit K. Batra, Adv. for

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE MANMEET PRITAM SINGH ARORA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

CM APPLs. 52659-60/2024, 52780/2024, 52897/2024, 59162-63/2024, 59345-46/2024, 61322/2024, 24290/2025, 28405/2025, CM APPL...../2025 (TO BE NUMBERED), REVIEW PET. 373/2024 in W.P.(C) 8035/2024

2. Today there is an application, being CM APPL.-28405/2025, that has been filed by one of JJ dwellers, Mr. V Thangaraj seeking stay of Demolition Notice dated 3rd May, 2025. Further there was yet another application (yet to be numbered by the registry) filed by an ad-hoc union of about

104 residents of Madrasi Camps¹.

3. At the outset, this Court was informed that a petition under Article 32 of the Constitution of India was preferred by one dweller i.e., Mr. Krishnan before the Hon'ble Supreme Court being W.P. (C) No. 484/2025, challenging the demolition notice dated 3rd May, 2025 issued by the PWD and the said petition has been adjourned to 13th May, 2025. Ms. Grover under instructions from Mr. Prasanna S., ld. Counsel who was present before the Supreme Court, has submitted that today, the Supreme Court directed that the Madrasi Camp residents ought to be given an effective hearing and the issue of demolition may be raised before this Court. The present matter was taken up at 2 PM. Both counsels on behalf of the dwellers viz., Ms. Vrinda Grover and Mr. Choudhary Ali Zia Kabir were heard. Mr. Chauhan on behalf of DUSIB, Ms. Prabhsahay Kaur on behalf of DDA and Mr. Sumit Batra ld. Counsel for the GNCTD have also been heard.

4. The origin of the present case, is that the Court had taken note of the fact that several drains discharging into the Yamuna River have been This expression is being used because of the name given in the applications filed by the residents of the said Camp.

unauthorisedly encroached upon, with illegal construction having been carried out thereon, resulting in blockage of the said drains and contributing to pollution in the river. The same also has led to severe clogging and water logging during rains in several parts of Delhi. Insofar as it pertains to the Madrasi Camp, the said camp has been found to be an illegal construction/encroachment on the bank of the Barapullah drain. The Court has observed that the presence of the camp is causing obstruction and clogging of the drain, resulting in severe waterlogging in the adjoining areas during rains, especially during the monsoon season.

5. Vide order dated 8th July, 2024, this Court had directed the Vice Chairman, DDA to ensure removal of all encroachments and unauthorized constructions along the Yamuna River belt, including on the drains leading into the Yamuna River. Pursuant thereto, applications being CM APPL. 52897/2024 and CM APPL. 52260/2024 came to be filed by certain dwellers of the Madrasi Camp, seeking a direction that they ought not to be evicted until appropriate rehabilitation measures are put in place. Reliance was placed upon the following policies/protocols -

☐ Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 (hereinafter 'JJ Policy') issued by Delhi Urban Shelter Improvement Board (hereinafter 'DUSIB');

☐ Draft Protocol for removal of Jhuggis and JJ basti dated 14th June, 2016.

6. Therefore, the Court has been dealing with various drains which flow into the Yamuna River including the Barapullah drain, the Taimoor Nagar drain, etc. since July, 2024, and various directions have been issued to remove encroachments and unauthorized constructions on the same.

7. Coming specifically to the Madrasi Camp, the submissions of ld. Counsel Ms. Vrinda Grover representing one of the residents in the Madrasi Camp - Mr. Thangaraj have been heard from time to time. Though, the petition itself has been filed by one resident, over the course of hearings,

several residents have been present in Court physically and their concerns have been addressed by Ms. Grover as well. The submission of Ms. Grover, Id. Counsel on 28th March, 2025 clearly was that in-principle they do not have right to reside in the encroached area and the only prayer that the residents of the Camp have is for proper rehabilitation.

8. Mr. Choudhary Ali Zia Kabir, Id. Counsel appearing today for an adhoc union of madrasi camp residents has also made submissions. It is his submission that he represents 104 residents of the Madrasi Camp who for the purposes of coordinated representation have formed as an ad-hoc union. It is his submission that the Protocol of DUSIB for rehabilitation ought to be strictly enforced.

9. Submissions have been heard by this Court from time to time after July, 2024 i.e., as is evident vide orders dated 23rd October 2024, 12th November 2024, 22nd November 2024, 29th November 2024, 6th December 2024, 20th December 2024, 28th January 2025, 28th March 2025 and 23rd April 2025.

10. Over these last number of hearings, the directions given and the steps taken relating to the Madrasi Camp, inter alia, are as under:

- Survey of all the residents' jhuggies in the Madrasi Camp was conducted by the Eligibility Determination Committee (hereinafter 'EDC') to determine their eligibility for rehabilitation. A total of 370 jhuggies exists in Madrasi Camp, out of whom 189 have been found eligible for rehabilitation under the JJ Policy;
- For the eligible residents, various options of EWS flats were explored;
- Prayers were made for allocation of flats in Kalkaji, which was explored, however, the same were not available;
- In the hearing dated 23rd April, 2025, a request was also made for flats in Dwarka, which was again considered vide the order dated 23rd April, but the said flats were also found not to be available with either the DUSIB or DDA. Finally, flats were identified in Narela as the only option for rehabilitating these residents of the Madrasi Camp;
- Pursuant to the same, efforts to rehabilitate the Residents were undertaken by setting up a proper camp for handing over the letters of allotment. Most dwellers did not turn up to take the allotment letters;
- Various concerns were raised by the residents, in respect of the rehabilitation process, including the payment of Rs.1,12,000/- stipulated under the JJ Policy. Taking these concerns into account, this Court, vide its previous order dated 23rd April, 2025, directed that a meeting be convened by the Chief Secretary, GNCTD with resident representatives of the Camp and officials from all concerned Departments to arrive at some resolution on the following aspects:

"18. In light of the above circumstances, the Chief Secretary, Government of NCT of Delhi, is directed to convene a meeting with ten eligible representatives/residents of Madrasi Camp, and all concerned authorities, with a view for arriving at an amicable resolution on the following issues:

(i) Whether any concession or monthly instalment scheme can be extended to the JJ dwellers for payment of 1,12,000/- as stipulated under the DUSIB policy;

(ii) The mechanism for ensuring smooth transition and admission of children from JJ Dweller families into appropriate schools, including DTEA Schools, if any, located in proximity to the accommodation at Narela. If a survey is required to be conducted for ascertaining the choice of schools etc., the same may also be discussed, with strict timelines considering the fact that the new academic year in schools is about to begin

(iii) Availability and adequacy of transportation facilities in the vicinity of the relocated accommodation for commuting to schools, workplaces, and for other essential purposes;

(iv) The procedure and timelines to be followed for removal and/or demolition of structures that have been constructed across the Barapullah drain, considering the arrival of the monsoon."

11. Pursuant to the above directions, a meeting was convened by the Chief Secretary GNCTD, on 1st May, 2025 and the relevant extract of the minutes of the meeting have been set out below:

"The eligibility of jhuggi jhopri dwellers of Madrasi camp, Jangpura is determined under the Rehabilitation Policy, dated 11.12.2017. As per clause 4(i), Part - B of the said policy, the contribution of the beneficiary is Rs.1,12,000/- per dwelling unit. In addition, the beneficiary will be required to pay an amount of Rs.30,000/- at the time of the allotment of the dwelling unit, towards the cost of maintenance for a period of five years. The JJ dwellers were duly informed vide their provisional eligibility letters that beneficiary has to deposit Rs. 1,12,000/- (in case of Schedule Caste Rs. 1000/-) before allotment. In addition they have to deposit Rs. 30,000/- towards maintenance charges for five years.

It was also informed that there is no scheme for any concession or monthly instalment scheme which can be extended to the JJ dwellers for payment of Rs.1,12,000/- as stipulated under the DUSIB policy. However, considering clause 4(v) of the policy, DDA, being making allotment & rehabilitating JJ dwellers at Narela, may assist those beneficiaries who are not able to arrange the contribution to avail loans from banks/ financial institutions including co-operative banks. It those beneficiaries who are not able to arrange the contribution. The official from DUSIB may also co- operate with the officials of DDA at said camp.

The Addl. Director Education, Department of DOE, GNCTD informed that there are 8 schools within a distance of 0.5 km to 4.5 km from the relocation site.

It was also assured that admission of all the displaced students from JJ basti Madrasi camp, Jangpura in the schools coming under the control of Directorate of Education,

NCT of Delhi shall be provided. It was also informed that there are no DTEA schools in the proximity. The list/details is enclosed at Annexure - I. The Addl. Director Education, MCD provided the list of 09 schools within 3 Km radius area of Block G7 & G 8, Pocket 4 & 5, Narela where JJ dwellers are being shifted. It was assured that the admission of students of the dwellers shall be done in the said schools upto Class Vth as per gender specification. The list/details is enclosed at Annexure -II.

The Dy. Chief General Manager, DTC informed that there are 175 buses at Narela Depot with 38 routes and provided the list of Bus Nos., Route Nos. of Buses. It was informed that survey was conducted by Narela Depot in the vicinity of Narela Sector G-7, G-8 Pocket A. It was observed that two buses on Route No.120C are operating from the said location during morning and evening hours. In addition, 15 buses on Route No. 106A and 12 buses on Route No. 116 also pass through this area as part of their regular operations. Moreover, DIMTS-operated buses on Route Nos. 215 and 919 are already serving the locality, passing within approximately 500 meters of Sector G-7, G-8 Pocket A. In addition, DTC has provided route originating and Passing from Narela. The list/details is enclosed at Annexure -III.

Director(Housing), DDA informed that the flats are ready to move. The representative from Delhi Jal Board informed that the water and sewerage facilities are available. DDA has been directed to designate area concerned J.E. as Nodal Officer to facilitate beneficiaries/allottees for availing electricity connections.

CDMO(North District), Department of Health Services provided the list of dispensaries and informed that two dispensaries are running within the area of 2 to 2.2 km. from relocation site at Narela running free of cost under Delhi Government. The list/details is enclosed at Annexure -IV.

PWD has informed the timeline for demolition and removal of malba from 10.05.2025 to 14.05.2025. The list/details is enclosed at Annexure -V. The representatives from JJ basti Madras camp attended the meeting. They objected the rehabilitation to Narela. However, they were informed that the said issue has already been decided by the Hon'ble High Court and the draw of lots has also been made by DDA. They maintained their objection to shift at Narela and repeatedly stated that they will not go to Narela. The representatives repeatedly told that they have no concern with Schools, water supply, sewerage or buses etc, they have only one issue that they will not like to go to Narela. Only two representatives signed the attendance sheet and the rest did not. The copy of gate passes of the representatives are annexed as Annexure-VI DDA being rehabilitating agency, to take requisite measures for shifting and possession of eligible JJ dwellers and as already decided vide meeting held on 15.04.2025, PWD being land owning agency & DDA to take requisite measures for removal/relocation along with DUSIB, District Administration and local Police.

Meeting ended with vote of thanks to the chair."

12. From the above Minutes of Meeting, presided by the Chief Secretary- GNCTD the following facts deserve to be mentioned:

i. It was proposed that a proper loan facility would be made available to the residents in order to enable them to make the payment for the allotment of flats in Narela;

ii. The Additional Director of Education Department also agreed that the displaced students would be accommodated in the schools in Narela which are at a distance of 0.5 km to 4.5 kms; iii. The Delhi Transport Corporation (DTC) has also informed that there is adequate bus facility as well in the Narela area as there is a specific DTC bus depot in the vicinity itself; iv. Director (Housing) DDA has informed that the flats are ready to move and water and sewage facilities are available; v. Two medical dispensaries are available in the area within 2 kms to 2.2 kms;

vi. Various residents of the Madrasi Camp who attended the meeting refused to sign the attendance sheet.

13. In respect of these minutes, one of the objections raised by Ms. Grover, Id. Counsel is that the meeting was not conducted in the manner as directed by this Court. It is further submitted that the living conditions in the EWS Flats are not as portrayed before this Court. As per the Affidavit-cum-Report dated 1st May, 2025, it has been stated that the flats in Narela are lacking in basic amenities such as electricity, clean water, and other essential facilities.

14. Responding to this, Id. Counsel for the DUSIB informs the Court that 350 families are already living in the same complex and the flats would be fully readied.

15. The submission of Mr. Kabir, Id. Counsel appearing for the ad-hoc union is that adequate notice period has not been provided to the JJ Dwellers in terms of the DUSIB Protocol which mandates a notice period of 15 days. The impugned Demolition Notice was issued on 3rd May, 2025 fixing the date of demolition on 10th May, 2025. It is also submitted on his behalf that Draft Protocol for removal of Jhuggis and JJ basti dated 14th June, 2016 for shifting has not been considered by the Court.

16. Ms. Prabhsahay Kaur, Id. Counsel submits on behalf of the DDA that adequate notice has already been given. After the meeting held by the Chief Secretary-GNCTD, a meeting was also held under the Chairmanship of Sub- Divisional Magistrate, Defence Colony and various action points were agreed upon.

17. The Court has heard the Id. Counsels for the parties including the Id. Counsels representing the residents. It is relevant to note that demolition was kept in abeyance during this entire period since September, 2024 and the residents of the Madrasi Camp were fully aware of these proceedings, as most of the residents of the Camp have participated in the Survey which has been conducted for the

purpose of evaluating eligibility for rehabilitation.

18. After having considered the entire matter comprehensively and the general circumstances currently prevalent, this Court is of the opinion that the demolition ought to be done in a systematic manner. The rehabilitation of the Madrasi Camp dwellers is also essential for the de-clogging of the Barapullah Drain. None of the dwellers can claim any rights beyond the right of rehabilitation, as the land is public land which is encroached upon. The current schedule which has been given by the PWD for demolition is as under:

1. Start of Demolition and removal of malba - 10.05.2025

2. Completion of demolition and removal of malba - 14.05.2025

19. In order to enable smooth rehabilitation of the Madrasi Camp dwellers, while achieving the purpose of the demolition i.e., for removal of encroachment and unauthorised construction on the Barapullah drain, this Court after an overall assessment of the matter directs as under:

a) The Authorities (DDA, MCD, DUSIB, PWD, GNCTD) shall hold two camps from 10th May, 2025 - 12th May 2025.

☐ Camp No.1 would be for handing over possession letters of the Narela flats.

☐ Camp No.2 shall be for the purpose for sanctioning loans, if required. To enable the same, the representatives of the Banks shall be duly present at the camps so that if any of the Dwellers wish to avail of any loan facilities the same can be arranged without inconvenience.

b) Parallely, the DDA/DUSIB shall ensure that all the amenities in the flats such as fixtures and fittings are available, by 20th May, 2025;

c) After 20th May, 2025, the eligible persons/dwellers from the Madrasi Camp shall start moving their belongings to the respective flats allotted to them in Narela. If any of the residents choose not to take the possession letters or avail of loan facilities, no further opportunity shall be granted to them for seeking allotment of the flats at Narela or any rehabilitation camps.

d) From 20th May, 2025 to 31st May, 2025, all the belongings shall be moved from the Madrasi Camp;

e) The demolition of the Madrasi Camp shall commence from 1st June, 2025.

f) While the Authorities are present in the Madrasi Camp, if any residents or dwellers therein have missed out on the survey which was already held, a Survey would be conducted and such residents can get their eligibility determined by the DUSIB accordingly.

g) In addition to the above, all the tasks to be undertaken in terms of the Minutes of meeting dated 1st May 2025, shall also be undertaken including facilitation of admission of children in the schools by the time the academic session begins in July 2025.

20. Insofar as the Provision D(iv) of DUSIB Protocol providing for a two month period from the date of allotment for shifting is concerned, this Court is of the view that the relocation of the Madrasi Camp dwellers to Narela is of utmost urgency and significance, particularly in light of the approaching monsoon season. Timely clearance of the Barapullah drain is imperative to prevent severe waterlogging in the adjoining areas. Moreover, it is pertinent to note that this Court has been seized of the matter, including the issue of shifting the Madrasi Camp, for over ten months. As noted above, several applicants are residents of the Madrasi Camp and the demolition was kept in abeyance since September, 2024. In view of the above, the contention regarding lack of notice of the proposed demolition is devoid of merit and is not tenable.

21. All the applications filed by the Madrasi Camp applicants are disposed of in the above terms. Review petition along with pending applications, if any, are disposed.

PRATHIBA M. SINGH JUDGE MANMEET PRITAM SINGH ARORA JUDGE MAY 09, 2025
Rahul/Ar.