

# Nisha Sharma & Ors vs Government Of Nct Of Delhi & Ors on 9 January, 2019

**Author: Vibhu Bakhru**

**Bench: Vibhu Bakhru**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI  
+ W.P.(C) 11100/2015  
NISHA SHARMA & ORS ..... Petitioners  
Through: Ms Jayshree Satpute and Ms Tripti  
Poddar, Advocates.

versus

GOVERNMENT OF NCT OF DELHI & ORS ..... Respondents  
Through: Mr Kushagra Pandey, Advocate for  
GNCTD.  
Mr Rajesh Gogna, CGSC with Mr  
Perala Upendra Sai, Advocate for R-  
2, 3, 4, 7, 8, 9 & 10 with Mr Murari  
Kumar, LDC, Dr. RML Hospital.  
Mr Parvinder Chauhan, and Mr Nitin  
Jain, Advocates for DUSIB.

CORAM:  
HON'BLE MR. JUSTICE VIBHU BAKHRU  
ORDER

% 09.01.2019  
CM APPL. 32890/2018

1. The petitioners claim that they were residents who were residing with their families in the Jhuggi Jhopri Cluster at G-Point, Kali Bari Lane, Behind Dr. RML Hospital, Ashok Road, New Delhi. The jhuggies (hutments) located at the site were demolished on 22.11.2010. The petitioners claimed that they were entitled to relocation under the relocation/rehabilitation policy of the Government of NCT of Delhi. Accordingly, the petitioners amongst others filed a writ petition - W.P.(C) 1798/2011 captioned Dharampal Singh and Ors. v. GNCT of Delhi and Ors. - seeking rehabilitation under the relocation/rehabilitation policy of the Government of NCT of Delhi.

2. The said petition was disposed of by this Court by an order dated 10.10.2011. The operative part of the order reads as under:-

"20. In the circumstances, the petition is disposed of with the following directions:-

a. The petitioners to vacate the said site on or before 6th November, 2011;

b. If the petitioners or any of them or any other person in occupation fail to vacate the site by the said date, the respondent Hospital shall be entitled to use reasonable force for their removal so that the land is available for the expansion project of the respondent Hospital. The respondent no.10 SHO, PS - Mandir Marg is directed to ensure that the respondent Hospital has possession of the vacant site as on 7th November, 2011;

c. The respondent DUSIB is directed to have the eligibility of all the seventy petitioners for relocation under the Policy determined on or before 15th December, 2011;

d. The Electoral Office and the Food Supply Office are directed to immediately respond to the verification sought by the respondent DUSIB;

e. The ten petitioners who are stated to have not submitted their documents to the respondent DUSIB to submit the same on or before 31st October, 2011;

f. The petitioners to appear before Mr. Harish Vats in the first instance on 17th October, 2011 at 1100 hours and thereafter on subsequent dates as may be required to. The respondent DUSIB to submit its report to the land owning agency i.e. L&DO on or before 20th December, 2011;

g. The respondent L&DO is directed to relocate such of the petitioners as are found eligible as per the report and as per the Policy of the Government;

h. The petitioners or such of them if remain aggrieved by the said report shall have remedies in law;

i. The government schools near to the place where the petitioners are re-located temporarily or permanently, to allow the transfer of the children of the petitioners from the government school which they are presently attending to the new school;

j. The CEO of the respondent DUSIB to comply with the direction aforesaid."

3. The present petitioners contend that the aforesaid directions were not complied inasmuch as they have not been relocated and, accordingly, preferred the present petition, inter alia, praying that directions be issued to the respondents to immediately to comply with the directions issued by this Court in W.P.(C) 1798/2011 on 10.10.2011. It appears that there was certain controversy regarding the persons who were eligible for rehabilitation. However, that controversy does not survive.

4. On 29.01.2018, this Court directed the L&DO to file a proper affidavit indicating the steps taken and the time frame within which all eligible persons would be rehabilitated. In compliance with the aforesaid order, the L&DO/respondent no.4 filed a status report. The same indicated that a meeting of the concerned officers had been held on 05.02.2018, wherein DUSIB had stated that they would

provide built up flats to rehabilitate 68 eligible persons at the cost of 9 lacs each. A statement was also made on behalf of the L&DO that the concerned department was willing to pay the amount and requested DUSIB to sent a formal demand.

5. In view of the aforesaid statement, on 19.02.2018, this Court directed DUSIB to raise a demand as expeditiously as possible and further the concerned respondents were also directed to take immediate steps to ensure that the payment is made to DUSIB in order that the accommodation could be allotted to the eligible persons.

6. At the hearing held on 17.08.2018, it was reported that there is some controversy as to the departments who are responsible for paying compensation. It is the stand of L&DO that Dr. Ram Manohar Lohia Hospital, the allottee of the land on which JJ Cluster was located, is required to bear the cost for rehabilitation/relocation of the persons eligible under the relocation/ rehabilitation policy. The status report filed on 16.03.2017 by the L&DO also enclosed therewith a letter dated 07.01.1997 whereby the sanction for allotment of land measuring 2.257 acres in favour of Ministry of Health and Family Welfare (Department of Health) for construction of residence of doctors of Dr. Ram Manohar Lohia Hospital, was granted. The terms and conditions stated in the said letter indicates that the cost involved for removing illegal quarters from the site was required to be borne by Dr. Ram Manohar Lohia Hospital (Ministry of Health and Family Welfare).

7. It is relevant to note that in terms of the order dated 10.10.2011, the directions were issued to L&DO for rehabilitating the eligible persons. The said order attained finality and, therefore, the onus for ensuring that the eligible persons were relocated rested with L&DO. However, in view of the controversy as to which department was required to make payment to DUSIB for relocating the eligible JJ dwellers, this Court had suggested that L&DO make the entire payment due to DUSIB and subsequently recover the contribution from other organisations/departments.

8. Thereafter, an affidavit was filed on behalf of L&DO affirming that a meeting under the chairmanship of L&DO officer was held on 27.08.2018 to resolve the issue. During the course of the said meeting, the representatives of Dr. Ram Manohar Lohia Hospital claimed that initially 3.2 acres of land were allotted out of which only 2.257 acres of land was provided to Dr. Ram Manohar Lohia Hospital and the remaining 0.943 acres of land was taken over by the President's Estate. It was suggested that President's Estate be also called upon to contribute towards re-location of the eligible JJ dwellers. Subsequently, an affidavit dated 09.01.2019 mentioning the same has also been filed on behalf of the Ministry of Health and Family Welfare.

9. The aforesaid contention of the Ministry of Health and Family Welfare appears to be erroneous, as the sanction for the allotment as indicated in the letter dated 07.01.1997 is only with respect to 2.257 acres of land and, therefore, in terms of the sanction for allotment, the cost of relocation of eligible JJ dwellers is required to be borne by Dr. Ram Manohar Lohia Hospital.

10. It is apparent from the above that in view of the controversy between the department of L&DO and Ministry of Health and Family Welfare, the requisite payment have not been made to DUSIB and consequently, eligible JJ dwellers had not been rehabilitated even after more than seven years

after the directions issued by this Court.

11. The inter se disputes between the two departments cannot hold up the allotment of accommodation to the eligible JJ dwellers. The directions given in the order dated 10.10.2011 were unambiguous and L&DO was required to ensure that the eligible JJ dwellers are relocated. The said order has become final and this Court finds no reason to now entertain the controversy as to which department of the Central Government be required to bear the cost of such relocation. However, it is noticed that in the affidavit filed on behalf of the Ministry of Health and Family Welfare, it is indicated that Ministry of Health and Family Welfare would pay its proportionate share taking into account the land appropriated towards the President's Estate. As noticed above, the land appropriated by the President's Estate is not relevant as the initial allotment was its sanction for 2.257 acres and, admittedly, the same was made available to Dr. Ram Manohar Lohia Hospital.

12. In view of the aforesaid affidavit, the Secretary of Ministry of Health and Family Welfare is directed to ensure that its department would pay the entire amount of the bill raised by DUSIB for rehabilitating of the eligible JJ dwellers. The said payment shall be made within a period of eight weeks from today.

13. It is clarified that this does not absolve L&DO from ensuring that directions issued in the order dated 10.10.2011 are duly complied with.

14. List for compliance on 01.04.2019.

VIBHU BAKHRU, J JANUARY 09, 2019 RK