JAILORWALA BAGH COLONY, ALLOWED/REJECTED CASE LIST OF 01.05.2024 TO 30.06.2024

JUNE 2024

S.No	Appl. No.		Appl. Date	Applicant Name	Father's Name	Jhuggi No	Decision	Order Date
1.	143	2024	17.07.2023	Seesam	Phool Chand	A-62	Rejected	03-06-2024
2.	75	2024	12-07-2023	Devta Deen	Ram Gareeb	B-05	Rejected	03-06-2024
3.	167	2024	17-07-2023	Kismati	Ghanshyam	A-65	Rejected	04-06-2024
4.	12	2024	02-05-2023	Sangeeta	Deepak	H-132	Rejected	04-06-2024
5.	213	2024	21-07-2023	Pooja	Angad	A-61	Rejected	05-06-2024
6.	116	2024	13-07-2023	Bobi	Bhali	A-114/CN-1301	Rejected	05-06-2024
7.	22	2024	04-05-2023	Vidya Verma	Siyaram	F-130	Rejected	06-06-2024
8.	31	2024	08-05-2023	Poonam	Meva Lal	N-207/136	Rejected	06-06-2024
9.	53	2024	12-07-2023	Rita nishad	Hira lal nishad	D-24	Rejected	10-06-2024
10.	227	2024	25-07-2023	Radhika devi	Laldhari	H-196,	Rejected	10-06-2024
11.	229	2024	25-07-2023	Ritu Devi	Ashok	I-42	Rejected	11-06-2024
12.	35	2024	08-05-2023	Shakuntala devi	Ramfal	N207/87-B, H-Blk	Rejected	11-06-2024
13.	230	2024	25-07-2023	Sushma devi	Jiyalal	H-192,	Rejected	13-06-2024
14.	196	2024	19-07-2023	Naresh Maurya	Kalu Maurya	A-75/3	Rejected	13-06-2024
15.	236	2024	27-07-2023	Seeta devi	Jeevat Ram	C-19	Rejected	18-06-2024
16.	20	2024	04-05-2023	Chinta devi	Mahatam	C-312 (N-207/292)	Rejected	18-06-2024

	179	2024	18-07-2023	Krishna Yadav	Khelo yadav	A-158,	Rejected	19-06-2024
	90	2024	12-07-2023	Dilip Kumar	Budha Prasad	C-16 // N-207/21	Rejected	19-06-2024
19.	81	2024	12-07-2023	Ramsukh	Rameshar	H-226	Rejected	20-06-2024
20.	214	2024	21-07-2023	Anita	Dukh	A-23	Rejected	20-06-2024
21.	77	2024	12-07-2023	Dinesh	Baij Nath	A-72	Rejected	21-06-2024
22.	70	2024	12-07-2023	Urmila Devi	Rama Kant	H-59	Rejected	21-06-2024
23.	14	2024	03-05-2023	Bachi Devi	Jitender CHaudhary	F-129	Rejected	24-06-2024
24.	211	2024	21-07-2023	Mithun	Keshav	F-147	Rejected	24-06-2024
25.	172	2024	17-07-2023	Fulsi devi	Yamuna yadav	N-207/450,/H-10	Rejected	25-06-2024
26.	01	2024	26-04-2023	Rajesh	Ram Ratan	N-207/848	Rejected	25-06-2024
27.	131	2024	14-07-2023	Chinta Kumari	Rakesh	F-92	Rejected	25-06-2024
28.	55	2024	12-07-2023	Krishna	Prbhans Chaudhary	F 63,	Rejected	26-06-2024
29.	183	2024	18-07-2023	Seema	Shiv Shankar	A-46 (CN-680)	Rejected	26-06-2024
30.	28	2024	08-05-2023	Tara Devi	Doodh Nath	H-199/N-207/31	Rejected	26-06-2024
31.	216	2024	24-07-2023	Rinki	Firtu ram	F-148/F-207/177,	Rejected	27-06-2024
32.	224	2024	25-07-2023	Kamla Devi	Shiv Kumar	N-207/335	Rejected	27-06-2024
33.	209	2024	20-07-2023	Shahim	Md. Mustkin	A-118,	Rejected	28-06-2024
34.	21	2024	04-05-2023	Sunil Saroj	Anika Saroj	H-220	Rejected	28-06-2024
35.	24	2024	08-05-2023	Ram Sajivan	Nanku	N-207/51	Rejected	28-06-2024

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

Appeal No: 143 of 2024

Date of Institution: 17.07.2023

Date of Order: 03.06.2024

Present: Appellant/ Claimant Seesam S/o Phool Chand

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-62/(N-207/1454), 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 records, the Appellant/ Claimant's Jhuggi bearing No. A-62/(N-207/1454) was found to exist but he had failed to

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submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-27/007.G/ dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 143 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 09.04.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-P, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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-62/(N-207/1454) was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2105 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-62/(N-207/1454) as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant Seesam has been recorded before us on 09.04.2024, wherein he has stated that his parents, Phoolchand & Kumari are having three sons; Bechu, Sechu & Seesam and three daughters; Soskala, Monika & Anita. All the children are married. Soskala is married with Rakesh and she is living in her matrimonial home in Azamgarh, Uttar Pradesh. Monika is married with Rajesh and she is living in her matrimonial home at Karol Bagh, Delhi. Anita is also married but her husband has deserted her and nowadays she is living with her parents in Jailorwala Bagh, Delhi. Bechu is married with Urmila and having three children. Sechu is married with Nitu and having three children. Seesam (Appellant/Claimant) is married with Savita and having three children, Gaurav, Saurav & Saloni.

9. The Appellant/Claimant has stated that he is having a single storey Jhuggi No. A-62/(N-207/1454)/ (N-207/1454) and it comprises of one room. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi No. A-62/(N-207/1454) but his claim has been rejected on the ground that his Voter ID Card could not be verified and further he has been found to be living on the upper floor in spite of the fact that he has claimed allotment against the single storey No. A-62/(N-207/1454) and further he is having all the requisite document and accordingly aggrieved by the same he has filed the present Appeal No. 143 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-P, 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-62/(N-207/1454). As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. A-62/(N-207/1454) 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 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-62/(N-207/1454). The video was played before the Appellant/Claimant when his statement was recorded before us on 09.04.2024 wherein he has stated that the video clip pertains to

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the Jhuggi No. A-62/(N-207/1454) in which the Jhuggi is clearly to be a pucca single storey Jhuggi having roof made with asbestos sheet 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 **"A-62/(N-207/1454) (SEESAM NOT IN LIST) G.F."** has 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-62/(N-207/1454). 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-62/(N-207/1454) 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-62/(N-207/1454) and using the same for residential purposes.

13. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. A-62/(N-207/1454) 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. A-62/(N-207/1454) 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 single storey Jhuggi No. A-62/(N-207/1454) 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-P, 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:

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"Part-B

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

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

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

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central

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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."

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) - REQUIREMNET 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 the 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 alternative allotment if he possesses any one of the documents out of the list of 12 documents.

19. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less

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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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET 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 separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

22. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

23. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact 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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate 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 this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

25. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor

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under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

26. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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.

27. It is further held in Mohammad Hakim's case (supra) 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 a 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.

28. It is further held in Mohammad Hakim's case (supra) 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.

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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 separate ration 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.

29. It is further held in Mohammad Hakim's case (supra) 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 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. 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 Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

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30. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ 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.

31. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of each 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

32. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

33. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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

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of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

34. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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.

35. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

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36. 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 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative 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 - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

37. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

38. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

39. It is pointed out that we have already held that the single storey Jhuggi No. A-62/(N-207/1454) 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 and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

40. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the single storey Jhuggi No. A-62/(N-207/1454) as per the policy guidelines issued by DDA.

41. The Appellant/Claimant has tendered his Voter ID Card No. WHC 2175180 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of his claim.

42. It is pointed out that the Voter ID Card No. WHC 2175180 (Annexure-A) of the Appellant/Claimant has been issued on 08.09.2015, 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. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a

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Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-62/(N-207/1454) 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.

43. The Appellant/Claimant has tendered Aadhar Card (Annexure-D) & PAN Card (Annexure-E) of his wife Savita, Voter ID Card No. JPF 0684589 (Annexure-F) & Aadhar Card (Annexure-G) of his mother Kumari, Voter ID Card No. JPF 0677849 (Annexure-H) & Aadhar Card (Annexure-I) of his father Phool Chand, Electricity Bill (Annexure-J), the Passbook of Allahabad Bank (Annexure-K), Electricity Bill (Annexure-L), Ration Card (Annexure-M), Voter List of the year 2012 (Annexure-N), Voter List of the year 2013 (Annexure-O) and Voter List of the year 2014 (Annexure-P).

44. It is pointed out that the Appellant/Claimant has tendered Aadhar Card (Annexure-D) & PAN Card (Annexure-E) of his wife Savita but he has not tendered her Voter ID Card issued on the address of Jhuggi No. A-62/(N-207/1454) regarding which he is claiming allotment from DDA and also no Voter List has been tendered to show that she has used her Voter ID Card to cast vote in any of the election and more particularly in the years from 2012, to 2015. It is pointed out that Voter ID Card No. JPF 0684589 (Annexure-F) of his mother Kumari & Voter ID Card No. JPF 0677849 (Annexure-H) of his father Phool Chand have been issued on 10.06.2002 and 07.06.2009 respectively and further, the name of Kumari appears at Sl. No. 136 in the Voter List of the year 2012 (Annexure-N), at Sl. No. 136 in the Voter List of the year 2013 (Annexure-O) and at Sl. No. 184 in the Voter List of the year 2014 (Annexure-P) whereas the name of the Phool Chand appears at Sl. No. 135 in the Voter List of the year 2012 (Annexure-N), at Sl. No. 135 in the Voter List of the year 2013 (Annexure-O) and at Sl. No. 183 in the Voter List of the year 2014 (Annexure-P). There is no doubt that both of his parents Phoochand & Kumari are having Voter ID Cards (Annexure-F & Annexure-H) issued much prior to the cutoff date 01.01.201 and further their names also appear in the Voter List from 2012, 2013 & 2014 (Annexure-N to Annexure-O) but these documents are of no help to determine the eligibility of the Appellant/Claimant because as per our discussion above the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date 01.01.1435 and further his name also does not appear in the voter list of the year's 2012, 2013,2014 and

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2015 (prior to 01-01-2015) & also in the year of survey. It is also pointed out that the Electricity Bill (Annexure-J) shows that the electricity connection has been taken by his father Phool Chand 07.05.2010. The Passbook of Allahabad Bank (Annexure-K) shows that the Appellant/Claimant had opened the account but the date of opening of account is not mentioned. Another Electricity Bill (Annexure-L) shows that the Appellant/Claimant had taken electricity connection on 09.11.2012. Furthermore, the Ration Card No. BPL 53160255 (Annexure-M) shows that it has been issued in favour of his father Phool Chand on 09.11.2006. 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 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-62/(N-207/1454) 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.

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 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 present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2105 issued on the address of Jhuggi No. A-62/(N-207/1454) 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

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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-P, 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 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. 350-27/007.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 11.07.1438 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/1438 and C.M. Appeal 25594/1438 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: 75 of 2024

Date of Institution: 12.07.2023

Date of Order: 03.06.2024

Present: Appellant/ Claimant Devta Deen S/o Ram Gareeb

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. B-5, 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. B-5 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. 350-27/028.G/ dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 75 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 06.04.2024 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. Radhey Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-5 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. B-5 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Devta Deen has been recorded before us on 06.05.2024 wherein he has stated that his parents, Ram Gareeb & Ganwine, are having three sons; Sant Ram, Ram Dev & Devta Deen and three daughters; Shanti, Usma & Sheela. Ram

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Gareeb had expired in the year 2016. Ganwine is living in her native village in Prayagraj, Uttar Pradesh. All the children are married. Shanti is married with Raju and she is living in her matrimonial home in Ambala, Haryana. Usma is married with Chedi Lal and Sheela is married with Amar Singh and both of them are living in their respective matrimonial homes in District Prayagraj, Uttar Pradesh. Sant Ram is married with Urmila and having two children and they are living in their native village in District Pratap Garh, Uttar Pradesh. Ram Dev is married with Sarita and having two children. Devta Deen (Appellant/Claimant) is married with Sitara and having three children; Brijesh, Sahil & Nikhil.

9. The Appellant/Claimant has stated that he is having a double storey Jhuggi No. B-5, Jailorwala Bagh 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 his brother Ram Dev along with his wife Sarita and both the children is living on the first floor of the Jhuggi No. B-5 but he has not sought allotment form DDA whereas the Appellant/Claimant along with his family is living on the ground floor of the said Jhuggi No. B-5 and the Appellant/Claimant has sought allotment from DDA against the entire double storey Jhuggi No. B-5 but his claim has been rejected by Eligibility Determination Committee on the ground that his Voter Card could not be verified and he further he was found to be living on the upper floor in spite of the fact he has sought allotment from DDA against the double storey Jhuggi No. B-5 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. 75 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.

11. DDA has furnished survey records along with one video clip of Jhuggi No. B-5. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. B-5 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 and in the column of the details of the family members it is mentioned that no other family member was living 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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12. 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 06.05.2024 wherein he has stated that the video clip pertains to the Jhuggi No. B-5 in which the Jhuggi No. B-5 is clearly seen to be a double storey structure and an iron ladder going from the ground floor to the upper floor is also seen and further, the Appellant/Claimant is seen and getting the survey conducted and his room & kitchen are also seen and he is also seen holding a state in his hand on which "B-5 DEVTA DEEN G+1" is clearly seen to be written. Further, he is also heard stating that both the floors are occupied by him.

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. B-5. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. B-5 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. B-5 and using the same for residential purposes.

14. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-5 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. B-5 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. B-5 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

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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 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. 350-27/028.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 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.

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

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

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

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

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allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET 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 the 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 alternative allotment if he possesses any one of the documents out of the list of 12 documents.

21. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET 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 separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

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24. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

25. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact 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 legal aspect

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with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate 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 this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

27. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

28. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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 in Mohammad Hakim's case (supra) 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

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citizens of this country are provided food grains at a reasonable price. Hence, it is not a 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 is further held in Mohammad Hakim's case (supra) 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 separate ration 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 in Mohammad Hakim's case (supra) 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

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card issued in the name of the dwellers of the first floor of the Jhuggis 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. 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 Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

32. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ 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.

33. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of each 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

34. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has

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been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

35. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

36. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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.

37. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

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GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

38. 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 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

39. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

40. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

41. It is pointed out that we have already held that the double storey Jhuggi No. B-5 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 and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

42. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to

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01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the double storey Jhuggi No. B-5 as per the policy guidelines issued by DDA.

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

44. It is pointed out that the Appellant/Claimant has tendered his two Voter ID Cards. Both the Voter ID Cards (Annexure-A & Annexure-B) are bearing the same number i.e. WHC 2310647. The first Voter ID Card (Annexure-A) has been issued on 25.04.2019 on the address of Udham Singh Park, Wazirpur Industrial Area and not on the address of Jailorwala Bagh and accordingly, this document is not relevant to determine the eligibility of the Appellant/Claimant especially when it has been issued on different address and that too after the cut off date of 01.01.2015.

45. It is pointed out that the second Voter ID Card (Annexure-B) has been issued on the address of B-5, Jailorwala Bagh, Ashok Vihar on 28.09.2022, much after the cut off date of 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. However, it is pointed out that the name of the Appellant/Claimant appears at Sl. No. 492 in the Voter List of the year 2023 (Annexure-H) and further the Aadhar Card (Annexure-C) of the Appellant/Claimant has been issued on 21.04.2023, much after the cut off date of 01.01.2015.

46. The material placed on file shows that the Appellant/Claimant was not having any Voter ID Card or Aadhar Card on the cut off date of 01.01.2015 issued on the address of Jhuggi No. B-5, Jailorwala Bagh, regarding which he is claiming allotment from DDA. But initially he was having Voter ID Card No. WHC 2310647 (Annexure-A) issued on the address of Udham Singh Park, Wazirpur Industrial Area and that was issued on 25.04.2019 and thereafter, he got the address changed to B-5, Jailorwala Bagh by getting the second Voter ID Card (Annexure-B) issued on 28.09.2022. The fact remains that all the above mentioned documents (Annexure-A to Annexure-C) have been issued 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. B-5, 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)

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& also in the year of survey, therefore, the Appellant/Claimant is not entitled for claiming alternate allotment from DDA.

47. The Appellant/Claimant has tendered his Driving Licence (Annexure-E), Electricity Bill (Annexure-F) & Passbook of Union Bank of India (Annexure-G).

48. It is pointed out that Driving Licence (Annexure-E) of the Appellant/Claimant has been issued on 29.01.2016, much after the cut off date of 01.01.2015. The Electricity Bill (Annexure-F) shows that the electricity connection has been taken by the Appellant/Claimant on 24.09.2011. Further, the Passbook of Union Bank of India (Annexure-G) shows that the Appellant/Claimant has opened the account on 16.10.2020, 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 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. B-5, 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.

49. 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.

50. 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. B-5, 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

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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.

51. 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. 350-27/028.G/ dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

52. 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: 167 of 2024

Date of Institution: 17.07.2023

Date of Order: 04.06.2024

Present: Appellant/ Claimant Kismati W/o Ghanshyam

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-65, 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. A-65 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. 350-27/010.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 167 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 15.04.2024. 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. A-65 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-65 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Kismati has been recorded before us on 15.04.2024 wherein she has stated that she is married with Ghanshyam and having two children; Pawan & Payal.

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9. The Appellant/Claimant has stated that they are having a single storey Jhuggi bearing No. A-65 and it comprises of one room. The entire family has been living in the said Jhuggi. The Appellant/Claimant has sought allotment from DDA against the said single storey Jhuggi No. A-65, Jailorwala Bagh, but her claim was rejected by Eligibility Determination Committee on the ground that her Voter ID Card could not be verified and further she has been found to be claiming allotment against the upper floor in spite of the fact that she has sought allotment against the said single storey Jhuggi No. A-65, Jailorwala Bagh and further she is 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. 167 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.

10. DDA has furnished survey records along with one video clip of Jhuggi No. A-65. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. A- A-65 on 18.03.2020 on the said Jhuggi and her photographs 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 Ghanshyam, who is the husband 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.

11. DDA has furnished survey record along with one video clip pertaining to the Jhuggi No. A-65. The video was played before the Appellant/Claimant when her statement was recorded before us on 15.04.2024 wherein she has stated that the video clip pertains to the Jhuggi No. A-65 in which her husband Ghanshyam is seen and getting the survey conducted on behalf of the Appellant/Claimant and further, the Jhuggi is clearly seen to be a pucca single storey structure having roof made with asbestos sheet and her room & kitchen are also seen and further, she is also seen holding a slate in her hand on which "A-65 KISMATI 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-65. Thus the statement of the Appellant/Claimant

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as well as the survey records/video clips has duly proved that the single storey Jhuggi No. A-65 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-65 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.

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 Jhuggi No. A-65 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-K, 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 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.

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6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the 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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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) - REQUIREMNET 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 the 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 alternative allotment if he possesses any one of the documents out of the list of 12 documents.

19. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET 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

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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."

21. Thus Clause 1 (10) of Part–B of the DDA policy makes the requirement of having a separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

22. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

23. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether

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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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate 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 this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

25. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

26. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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

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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.

27. It is further held in Mohammad Hakim's case (supra) 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 a 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.

28. It is further held in Mohammad Hakim's case (supra) 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 separate ration 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.

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29. It is further held in Mohammad Hakim's case (supra) 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 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. 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 Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

30. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ 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.

31. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of ~~each~~ which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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

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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.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

32. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

33. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

34. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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

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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.

35. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

36. 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 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

37. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

38. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

39. It is pointed out that we have already held that the single storey Jhuggi No. A-65 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 along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

40. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the single storey Jhuggi No. A-65 as per the policy guidelines issued by DDA.

41. The Appellant/Claimant has tendered her Voter ID Card No. WHC 2267481 (Annexure-A) and Aadhar Card (Annexure-B) in support of her claim.

42. It is pointed out that the Appellant/Claimant has tendered her Voter ID Card bearing number WHC 2267481 (Annexure-A) and it has been issued on 03.08.2017, 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 years from 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.A-65, 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.

43. The Appellant/Claimant has also tendered the Voter ID Card No. WHC 3561107 (Annexure-C) & Aadhar Card (Annexure-D) & PAN Card (Annexure-E) of her husband Ghanshyam, Aadhar Cards (Annexure-F & Annexure-G) of her children Pawan & Payal, Electricity Bill (Annexure-H), Passbook of Karnataka Bank (Annexure-I), Property Survey Report of North MCD (Annexure-J) and Ration Card (Annexure-K) in support of her claim.

44. It is pointed out that the Voter ID Card No. WHC 3561107 (Annexure-C) of her husband Ghanshyam has been issued on 17.12.2020, much after the cut off date of 01.01.2015, and

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accordingly, the question of his name arising in any of the Voter Lists of the years from 2012 to 2015 does not arise. This shows that neither the Appellant/Claimant nor her husband Ghanshyam were having a valid Voter ID Card on the cut off date of 01.01.2015 issued on the address of the Jhuggi No. A-65, regarding which she is claiming allotment from DDA and further names 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 is pointed out that the Aadhar Card (Annexure-D) of Ghanshyam has been issued on 14.03.2021, much after the cut off date of 01.01.2015. The Appellant/Claimant has also tendered the Aadhar Cards (Annexure-F & Annexure-G) of her children, Pawan & Payal but the date of issuance of Aadhar Cards is not mentioned therein. The Electricity Bill (Annexure-H) shows that the electricity connection has been taken by her husband Ghanshyam on 25.04.2014. The Passbook of Karnataka Bank (Annexure-I) shows that the Appellant/Claimant has opened the account but the date of opening the account is not mentioned therein. The Property Survey Report (Annexure-J) has been issued by North MCD pertaining to the year 2015-16 and this document also pertains to the post cut off period of 01.01.2015. The Ration Card (Annexure-K) is bearing No. 077004296519 and it has been issued on 12.08.2014 in the name of the Appellant/Claimant and the name of her family members has been mentioned 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 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.A-65, 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.

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 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.

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 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-65, 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. 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.

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 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. 350-27/010.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 11.07.20232passed by Hon'ble High

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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.

(Ranbir Singh) 4/6/2024	(Satish Ahlawat) 4/6/2024	(Rachna Tiwary) 4/6/2024
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: 12 of 2024

Date of Institution: 02.05.2023

Date of Order: 04.06.2024

Present: Appellant/ Claimant Sangeeta W/o Deepak

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 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-132, 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. H-132 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. 350-10/85.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 12 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-P, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. 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-132 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"** 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-132 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Sangeeta has been recorded before us on 04.04.2024, wherein she has stated that she is married with Deepak and having three children, Gagan, Gopi & Khushbu. All the children are unmarried.

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9. The Appellant/Claimant has stated that her husband Deepak is having a single storey Jhuggi No. H-132 in Jailorwala Bagh, Ashok Vihar, Delhi, for the last twenty years whereas she was living with her in-laws in Azamgarh, Uttar Pradesh but she has been frequently visiting her husband Deepak and also on special occasion as and when he called for preparing documents.

10. The Appellant/Claimant has stated that she has claimed allotment from DDA against the said single storey Jhuggi No. H-132 which comprises of one room and having roof made with asbestos sheet but her claim has been rejected by the Eligibility Determination Committee on the ground that her Voter ID Card could not be verified in spite of the fact that she is having all the requisite document and further the Jhuggi No. H-132 against which she has claimed allotment from DDA is a single storey structure and accordingly aggrieved by the same the Appellant/Claimant has filed the present Appeal No. 12 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-P, 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. H-132. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. A- H-132 on 18.03.2020 on 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 Deepak, who is the husband 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.

12. DDA has furnished the survey records along with one video clip of Jhuggi No. H-132. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 04.04.2024 wherein the Appellant/Claimant has stated the video clip pertains to the Jhuggi No. H-132 in which her husband Deepak is seen and getting the survey conducted on her behalf of Jhuggi No. H-132 and in that video clip the Jhuggi No. H-132 is clearly seen to be a pucca single structure and having roof made with asbestos sheet and further her room & kitchen are seen and further, she is also seen holding a slate in her hand on which **"H-132 SANGEETA G.F"** is clearly 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 single storey Jhuggi No. H-132. 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-132 was 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 single storey Jhuggi No. H-132 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 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 Jhuggi No. H-132 as per the policy guidelines issued by DDA.

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

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

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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."

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) - REQUIREMNET 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 the 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 alternative allotment if he possesses any one of the documents out of the list of 12 documents.

20. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative 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 - REQUIREMNET 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 separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

23. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

24. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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

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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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact 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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate 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 this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

26. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

27. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card"

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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 in Mohammad Hakim's case (supra) 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 a 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 is further held in Mohammad Hakim's case (supra) 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 separate ration 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

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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 in Mohammad Hakim's case (supra) 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 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. 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 Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

31. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ 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

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allotment against the ground floor or against the first floor.

32. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of each 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

33. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

34. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

35. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double

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bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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.

36. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

37. 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 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

38. 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

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

39. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

40. It is pointed out that we have already held that the single storey Jhuggi No. H-132 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 and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

41. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the single storey Jhuggi No. H-132 as per the policy guidelines issued by DDA.

42. The Appellant/Claimant has tendered her Voter ID Card No. WHC 2167617 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter List of the year 2016 (Annexure-N) in support of her claim.

43. It is pointed out that the Voter ID Card No. WHC 2167617 (Annexure-A) of the Appellant/Claimant has been issued on 08.05.2016, much prior to the cutoff date 01.01.2015 and accordingly the question of her name appearing in the Voter List in the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise.

44. It is pertinent to point out the digit "1" mentioned in the year "2016" has been erased in order to make it appear that this Voter ID Card No. WHC 2167617 (Annexure-A) has been issued on 08.05.2006.

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45. There is no doubt that the Appellant/Claimant has stated that she has not made interpolation in Voter ID Card No. WHC 2167617 (Annexure-A) by erasing digit "1" but the document was received as such from the Election Commission. On this aspect it is pointed out that the explanation put forward by the Appellant/Claimant cannot be accepted and believed on the face of it and it shows that the Appellant/Claimant has tried to make interpolation in the Voter ID Card No. WHC 2167617 (Annexure-A) by erasing digit "1" from the year "2016" in order to make this document appear to have been issued in the year "2006" and this creates doubt and suspicion.

46. It is also pointed out that the name of the Appellant/Claimant appears at 571 in the Voter List of the year 2016 (Annexure-N). However, the fact remains that the Voter ID Card No. WHC 2167617 (Annexure-A) of the Appellant/Claimant has been issued on 08.05.2016, much after the cutoff date 01.01.2015 and accordingly the question of her name appearing in the Voter List in the years 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.H-132, 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.

47. The Appellant/Claimant has tendered two Voter ID Cards (Annexure-D & Annexure-E), Aadhar Card (Annexure-F) & PAN Card (Annexure-G) of her husband Deepak and Voter List of the year 2016 (Annexure-N) & (Annexure-O), Aadhar Cards (Annexure-H to Annexure-J) of her children, Gagan, Gopi & Khushboo, Electricity Bill (Annexure-K), the Passbook of Bank of Baroda (Annexure-L), Ration Card (Annexure-M) and the Passbook of Indian Overseas Bank (Annexure-P) in support of her claim.

48. It is pointed out that the Appellant/Claimant has tendered two Voter ID Cards (Annexure-D & Annexure-E). The first Voter ID Card (Annexure-D) of her husband Deepak is bearing number JPF 0697110 and it has been issued on 15.06.2002, much prior to the cutoff date 01.01.2015 and further, this Voter ID Card No. JPF 0697110 (Annexure-D) was also used by her husband Deepak in the year 2007 to cast vote and as his name is reflected at Sl. No. 750

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in the Voter List of the year 2007 (Annexure-O). Furthermore, the second Voter ID Card (Annexure-E) of her husband Deepak is bearing number WHC 2173499 and it has been issued on 04.04.2013 and further this Voter ID Card No. WHC 2173499 (Annexure-E) was used by him to cast voter in the year 2016 as his name is reflected at Sl. No. 570 in the Voter List of the year 2016 (Annexure-N).

49. The material placed on file shows that her husband Deepak was having two Voter ID Cards (Annexure-D & Annexure-E) but the Appellant/Claimant has failed to explain the reasons as to why her husband Deepak had got issued two Voter ID Cards (Annexure-D & Annexure-E) from the Election Commission and this creates doubt and suspicion and furthermore, no Voter List has been placed on file to show that Deepak had used his Voter ID Cards to cast vote in any of the elections from 2012 to 2015 as his name does not appear in the Voter List of the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and this further shows that the Appellant/Claimant as well as her husband Deepak were not living in Jailorwala Bagh, Ashok Vihar, Delhi during this period. It is pointed out that the Appellant/Claimant has tendered Aadhar Cards (Annexure-H to Annexure-J) of her children, Gagan, Gopi & Khushboo. The Electricity Bill (Annexure-K) shows that her husband Deepak had taken the electricity connection on 02.09.2005 on Jhuggi No. H-132. The Passbook of Bank of Baroda (Annexure-L) shows that her husband Deepak had opened the account on 29.08.2013 and the Passbook of Indian Overseas Bank (Annexure-P) shows that the Appellant/Claimant had opened the account on 13.11.2014. Further, Ration Card No. 077004217351 (Annexure-M) has been issued in favour of the Appellant/Claimant and the name of her family members is mentioned but the date of issuance is not 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 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.H-132, 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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50. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly accordingly to the merit of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

51. 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-132, 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 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-P, 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.

52. 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 her claim. There is no infirmity and illegality in the impugned order bearing No. 350-10/85.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

53. 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: 213 of 2024

Date of Institution: 21.07.2023

Date of Order: 05.06.2024

Present: Appellant/ Claimant Pooja W/o Angad

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-61, 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. A-61 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. 350-76/52.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 213 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 22.04.2024. 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. 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-61 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-61 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Pooja has been recorded before us on 22.04.2024 wherein she has stated that her in-laws, Ram Palat & Lilawati Devi, are having two sons; Pankaj & Angad and three daughters; Lali, Poonam & Lalita. All the children except Poonam

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& Lalita are married. Lali is married with Paras and she is living in her matrimonial home in Azamgarh, Uttar Pradesh. Pankaj is married with Puja. Angad is married with Pooja (Appellant/Claimant) and having two children; Aradhya & Aditi.

9. The Appellant/Claimant has stated that her family is having two separate Jhuggis in Jailorwala Bagh, Ashok Vihar bearing Jhuggi No. D-13 & Jhuggi No. A-61.

Jhuggi No. D-13

10. The Appellant/Claimant has stated that her in-laws, Ram Palat & Lilawati Devi, are having a double storey Jhuggi No. D-13, Jailorwala Bagh, Ashok Vihar and it comprises of one room on each floor and her in-laws Ram Palat & Lilawati, along with their unmarried daughters; Poonam & Lalita, as well as the family of their son Pankaj are living and regarding that DDA has made allotment in favour of her father-in-law Ram Palat. These facts are not disputed by DDA.

Jhuggi No. A-61

11. The Appellant/Claimant has stated that she along with her husband Angad and both the children; Aradhya & Adita, is living in the single storey Jhuggi No. A-61 and it comprises of on room and having roof made with asbestos sheet. The Appellant/Claimant has sought allotment from DDA against the said single storey Jhuggi No. A-61 but her claim has been rejected by Eligibility Determination Committee on the ground that her Voter ID Card could not be verified and further she has been found to be living on the upper floor in spite of the fact that she has claimed allotment against the single storey Jhuggi No. A-61 and further 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. 213 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 one video clip of Jhuggi No. A-61. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. A- A-61 on 22.11.2020 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.

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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 two video clips. The videos were played before the Appellant/Claimant when her statement was recorded before us on 22.04.2024 wherein she has stated that the first video clip pertains to the Jhuggi No. D-13 in which the Jhuggi is clearly seen to be a double storey pucca structure and her father-in-law Ram Palat is seen and getting the survey conducted and further, his room & kitchen are also seen on the ground floor and he is also seen holding a state in his hand on which **"D-13 RAM PALAT NOT IN LIST"** is clearly seen to have been written. The second video clip pertains to the single storey Jhuggi No. A-61 in which the Appellant/Claimant Pooja 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 **"A-61 POOJA GF"** 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 single storey Jhuggi No. A-61. 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-61 was 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 single storey Jhuggi No. A-61 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.

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 she is entitled to claim allotment against the single storey Jhuggi No. A-61 as per the policy guidelines issued by DDA.

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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-L, in support of her claim and prayed that DDA be directed to make allotment in her favour.

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

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

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As envisaged in para above, the 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) - REQUIREMNET 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

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

21. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET 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 separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

24. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

25. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact 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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate 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 this

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Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

27. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

28. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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 in Mohammad Hakim's case (supra) 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 a 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

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

30. It is further held in Mohammad Hakim's case (supra) 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 separate ration 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 in Mohammad Hakim's case (supra) 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 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. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made

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it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

32. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ 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.

33. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of each 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

34. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

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35. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

36. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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.

37. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

38. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must

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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 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

39. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

40. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

41. It is pointed out that we have already held that the single storey Jhuggi No. A-61 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 and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

42. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the single storey Jhuggi No. A-61 as per the policy guidelines issued by DDA.

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43. The Appellant/Claimant has tendered her Voter ID Card bearing No. WHC 3508140 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2022 (Annexure-K) and Voter List of the year 2023 (Annexure-L) in support of her claim.

44. It is pointed out that the Appellant/Claimant has tendered her Voter ID Card bearing number WHC 3508140 (Annexure-A) and it has been issued on 11.12.2019, 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. There is no doubt that the name of the Appellant/Claimant appears at Sl. No. 288 in the Voter List of the year 2022 (Annexure-K) & at Sl. No. 289 in the Voter List of the year 2023 (Annexure-L) but both the Voter Lists (Annexure-K & Annexure-L) pertain to post cut-off period and accordingly are not relevant to determine the eligibility of the Appellant/Claimant. 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.A-61, 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.

45. The Appellant/Claimant has also tendered the Voter ID Card No. WHC 3535630 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of her husband Angad, Aadhar Card (Annexure-G) of her daughter Aradhya, Electricity Bill (Annexure-H) & Passbook of Union Bank (Annexure-I) in support of her claim.

46. It is pointed out that the Appellant/Claimant has tendered the Voter ID Card bearing No. WHC 3535630 (Annexure-D) of her husband Angad and it has been issued on 18.01.2020, 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 Angad 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-61, 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 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility

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criteria as per the guidelines issued by DDA. The Electricity Bill (Annexure-H) shows that the electricity connection has been taken by the Appellant/Claimant on 16.12.2019, much after the cut off date of 01.01.2015. Further, the Passbook of Union Bank (Annexure-I) shows that Appellant/Claimant has opened the account on 11.07.2019, much after the cut off date of 01.01.2015, however, this document has been issued on the address of her matrimonial home i.e. Jhuggi No. A-60, Jailorwala Bagh, Ashok Vihar, and accordingly this document is not relevant to determine the eligibility of the Appellant/Claimant for claiming alternative 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 her favour to claim allotment from DDA because as per our discussion above neither the Appellant/Claimant nor her husband Angad 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-61, 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 (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.

47. 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.

48. 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-61, 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

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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-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.

49. 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. 350-76/52.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

50. 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: 116 of 2024

Date of Institution: 13.07.2023

Date of Order: 05.06.2024

Present: Appellant/ Claimant Bobi W/o Bholi

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-114/CN-1301, 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 17.03.2022 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-114/CN-1301 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. 350-120/3.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 116 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-E, 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 storey Jhuggi bearing No. A-114/CN-1301 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-114/CN-1301 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Bobi has been recorded before us on 05.04.2024, wherein she has stated that she is married with Bholi and having three sons, Deva, Sher Singh & Shera and three daughters, Divya, Neha & Chandni. Sher Singh, Shera, Neha and Chandni are unmarried. Divya is married with Suraj and she is living in her matrimonial home at

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Holambi Kalan, Delhi. Deva is married with Manisha and having two children.

9. The Appellant/Claimant has stated that initially they were having Kuchcha structure made with bamboo and Tirpal and in the year 2019 they have demolished Kuchcha Chappar and constructed double storey pucca Jhuggi No. A-114/CN-1301 in its place 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 to the upper floor. The Appellant/Claimant has sought allotment from DDA against the Jhuggi No. A-114/CN-1301 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 claiming allotment against the upper floor in spite of the fact that she has claimed allotment against the double storey Jhuggi No. A-114/CN-1301 and further she is having all the requisite documents as per the policy guidelines issued by DDA and aggrieved by the same she has filed the present appeal No. 116 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-E, 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-114/CN-1301. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. A-114/CN-1301 on 17.03.2020 on the ground floor of the said Jhuggi and her photographs & that of her 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 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-114/CN-1301. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 05.04.2024 wherein the Appellant/Claimant has stated the video clip pertains to the Jhuggi No. A-114/CN-1301 in which Jhuggi No. A-114/CN-1301 is clearly seen to be a double storey structure from outside and a bamboo ladder is also seen having placed outside in the gali and being used for going to the upper floor and further, the Appellant/Claimant is seen and getting the survey conducted of the said Jhuggi No. A-114/CN-1301 and her room & kitchen are also seen and further, the Appellant/Claimant is seen holding a slate in her hand on which **"A-114 BOBI GF"** is clearly seen to have been written.

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12. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that that on the cutoff date of 01.01.2015 the Appellant/Claimant was having Kuchcha structure made with bamboo and Tirpal and in the year 2019 they have demolished Kuchcha Chappar and constructed double storey pucca Jhuggi No. A-114/CN-1301 in its place 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 to the upper floor.

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-114/CN-1301. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the Kuchcha single storey structure bearing Jhuggi No. A-114/CN-1301 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 and in the year 2019 the Kuchcha Chappar was demolished and in its place a double storey pucca Jhuggi No. A-114/CN-1301 was constructed 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 Jhuggi No. A-114/CN-1301 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 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

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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. 350-120/3.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

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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.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET 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

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

20. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET 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 separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

23. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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 one of the voter list of the

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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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

24. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact 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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate 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 this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

26. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

27. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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 in Mohammad Hakim's case (supra) 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 a 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

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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 is further held in Mohammad Hakim's case (supra) 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 separate ration 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 in Mohammad Hakim's case (supra) 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 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. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made

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it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

31. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ 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.

32. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of each 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

33. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

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34. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

35. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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.

36. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

37. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must

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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 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

38. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

39. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

40. It is pointed out that we have already held that the single storey Jhuggi No. N-207/136 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant was using the same for residential purposes and in the year 2019 the Kuchcha Chappar was demolished and in its place a double storey pucca Jhuggi No. A-114/CN-1301 was constructed and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said Jhuggi No. A-114/CN-1301. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

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

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the Jhuggi No. No. A-114/CN-1301 as per the policy guidelines issued by DDA.

42. The Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), PAN Card (Annexure-D) and the Electricity Bill (Annexure-E) in support of her claim.

43. It is pointed out that the Appellant/Claimant is having two Voter ID Cards (Annexure-A & Annexure-B). The first Voter ID Card (Annexure-A) of the Appellant/Claimant is bearing number WHC 2158608 and it has been issued on 13.05.2015, 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 and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

44. The Appellant/Claimant has tendered her second Voter ID Card (Annexure-B) which is bearing number WHC 3698123 and it has been issued on 18.02.2024, 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 and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

45. It is pointed out that on the Voter ID Card No. WHC 2158608 (Annexure-A), the photograph of her husband Bholi has been affixed instead of the photograph of the Appellant/Claimant. Had there been a mistake in affixing wrong photograph on the Voter ID Card then the same would have been got rectified by getting the duplicate Voter ID Card issued after making necessary amendments/rectifications by the Election Commission. However, instead of getting a duplicate Voter ID Card issued after removal of the defects, the Appellant/Claimant had proceeded to get a fresh Voter ID Card No. WHC 3698123 (Annexure-B) issued in her favour with different number. This shows that getting two Voter ID Cards issued is not explained in the present case. It is pointed out that the citizen of India, who have attained the age of eighteen years can get the Voter ID Card issued but no citizen can have more than one Voter ID Card but in this case, the Appellant/Claimant has got two Voter ID Cards (Annexure-A & Annexure-B) issued in her favour and this creates doubt and suspicion.

46. It is pointed out that the Electricity Bill (Annexure-E) shows that the electricity connection has been taken by her husband Bholi on 13.08.2014. However, it is pertinent to point out

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that the Appellant/Claimant has not tendered the Voter ID Card of her husband Bholi to ascertain on which date it has been issued and also whether it was issued prior or after to the cutoff date 01.01.2015 and further, no Voter List has been placed on file to show that her husband Bholi has used his Voter ID Card to cast vote in any of the election and more particularly in the years from 2012 to 2015. Furthermore, no Aadhar Card & PAN Card of her husband Bholi as well as other family members have been placed on file by the Appellant/Claimant to corroborate that the Appellant/Claimant along with her family members was living in the Jhuggi No. A-114/CN-1301 regarding which she 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 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-114/CN-1301 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.

47. 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.

48. 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 having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-114/CN-1301 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

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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-E, 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.

49. 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. 350-120/3.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

50. 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: 22 of 2024

Date of Institution: 04.05.2023

Date of Order: 06.06.2024

Present: Appellant/ Claimant Vidya Verma W/o Siyaram 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 she is living in Jhuggi bearing No. F-130, 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 18.03.2022 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-130 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. 350-109/2.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 22 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 25.04.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as by Sh. Radhey Shyam Meena, Dy. Director, for DDA, 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-130 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-130 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Vidya Devi has been recorded before us on 25.04.2024 wherein she has stated that she is married with Siya Ram and having two children; Aniket & Alok. Both the children are unmarried.

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9. The Appellant/Claimant has stated that she is having a triple storey Jhuggi No. F-130, Jailorwala Bagh, Ashok Bihar and it comprises of one room on each floor and an iron 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 she along with her family in living in the triple storey Jhuggi No. F-130. The Appellant/Claimant has sought allotment from DDA against the said triple storey Jhuggi No. F-130 but her claim has been rejected by Eligibility Determination Committee on the grounds that she has claimed allotment against the upper storey and further her Voter ID Card could not be verified in spite of the fact that has she has sought allotment from DDA against the said triple storey Jhuggi No. F-130 and further 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. 22 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, 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. F-130. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. F-130 on 18.03.2020 on the ground floor of the said Jhuggi and her photographs & that of her 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.

12. DDA has furnished survey record along with one video clip pertaining to the Jhuggi No. F-130. The video was played before the Appellant/Claimant when her statement was recorded before us on 25.04.2024 wherein she has stated that the video clip pertains to the Jhuggi No. F-130 in which the Jhuggi is clearly seen from outside to be a triple storey structure and further the Appellant/Claimant is seen and getting the survey conducted and her room & kitchen on the ground floor are also seen and further she is also seen holding a slate in her hand on which **"F-130 VIDYA VERMA 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

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the existence of the double storey Jhuggi No. F-130. 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-130 was 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. F-130 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. F-130 as per the policy guidelines issued by DDA.

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

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2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-109/2.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 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
> 10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
> 11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

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As envisaged in para above, the 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) - REQUIREMNET 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 the 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 alternative allotment if he possesses any one of the documents out of the list of 12 documents.

21. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET 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 separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

24. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

25. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact 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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate 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 this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

27. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

28. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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 in Mohammad Hakim's case (supra) 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 a 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

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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 is further held in Mohammad Hakim's case (supra) 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 separate ration 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 in Mohammad Hakim's case (supra) 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 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. Hence, it was held that the DDA Policy, 2015

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(PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

32. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ 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.

33. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of each 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

34. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the

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respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

35. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

36. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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.

37. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

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GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

38. 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 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

39. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

40. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

41. It is pointed out that we have already held that the double storey Jhuggi No. F-130 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 and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

42. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015

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(prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the double storey Jhuggi No. F-130 as per the policy guidelines issued by DDA.

43. The Appellant/Claimant has tendered her Voter ID Card No. WHC 2229060 (Annexure-A) and Aadhar Card (Annexure-B) in support of her claim.

44. It is pointed out that the Appellant/Claimant has tendered her Voter ID Card bearing number WHC 2229060 (Annexure-A) and it has been issued on 30.11.2016, 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. F-130 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.

45. The Appellant/Claimant has also tendered the Voter ID Card No. WHC 2229754 (Annexure-C) & Aadhar Card (Annexure-F) of her husband Siya Ram, Voter ID Card No. WHC 3627874 (Annexure-D) & Aadhar Card (Annexure-E) of her son Aniket, Electricity Bill (Annexure-G), Ration Card No. 077005244583 (Annexure-H) and Aadhar Card (Annexure-I) of her son Alok in support of her claim.

46. It is pointed out that the Appellant/Claimant has tendered the Voter ID Card of Siya Ram bearing No. WHC 2229754 (Annexure-C) and it has been issued on 30.11.2016, 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 2012 to 2015 does not arise. This shows that neither the Appellant/Claimant nor her husband Siya Ram was having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. F-130, 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 (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.

47. It is also pointed out that the Voter ID Card No. WHC 3627874 (Annexure-D) of her son

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Aniket has been issued on 19.04.2022, much after the cutoff date of 01.01.2015. Furthermore, the Electricity Bill (Annexure-G) shows that the electricity connection has been taken by her husband Siya Ram on 23.09.2015, much after the cutoff date of 01.01.2015. Furthermore, the Ration Card (Annexure-H) is bearing No. 077005244583 and it has been issued in favour of the Appellant/Claimant and the name of her family members is mentioned and it has been issued on 20.08.2019, 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 issued on the address of Jhuggi No. F-130 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.

48. 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.

49. 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 having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. F-130 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-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 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.

50. 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. 350-109/2.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

51. 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: 31 of 2024

Date of Institution: 08.05.2023

Date of Order: 06.06.2024

Present: Appellant/ Claimant Poonam W/o Dinesh 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-207/136, 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. N-207/136 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-Fresh/220 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 31 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-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 by Sh. Radhey Shyam Meena, Dy. Director, for DDA, 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. N-207/136 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-207/136 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Poonam has been recorded before us on 29.04.2024 wherein she has stated that she is married with Dinesh Kumar and having two children; Prince & Pratigya. Both the children are unmarried.

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9. The Appellant/Claimant has stated that she is having a double storey Jhuggi No. N-207/136, Jailorwala Bagh, Ashok Bihar and it comprises of one room on each floor and bamboo ladder has been 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 double storey Jhuggi No. N-207/136 but her claim has been rejected by Eligibility Determination Committee on the ground that her Voter ID Card could not be verified and further she has been found to have claimed allotment against the upper floor in spite of the fact that she has claimed allotment against the double storey Jhuggi No. N-207/136 and further she is having all the requisite documents issued as per policy guidelines issued by DDA and accordingly, aggrieved by the same, she has filed the present Appeal No. 31 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, 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. N-207/136. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. N-207/136. 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. N-207/136. 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. N-207/136 in which the Jhuggi is clearly seen to be a double storey pucca structure from outside and further, the Appellant/Claimant is seen and getting the survey conducted and her room & kitchen are also seen. Further, she is also heard stating that her family is living in both the floors and further, she is seen holding a slate in her hand on which ***"H (N-207/136) POONAM (NOT IN LIST) 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. N-207/136. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. N-207/136 was 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 double storey Jhuggi No. N-207/136 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 and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

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 double storey Jhuggi No. N-207/136 as per the policy guidelines issued by DDA.

15. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-H, 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 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-Fresh/220 dated 01.07.2023.

17. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi

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Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"**Part-B**

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

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

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

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

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- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/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) - REQUIREMNET 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 the 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 alternative allotment if he possesses any one of the documents out of the list of 12 documents.

20. Thus the legal position which emerges out is that for claiming alternative allotment against

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the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET 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 separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

23. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

24. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the

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dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact 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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate 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 this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

26. However, thereafter the legality of requirement of separate Ration Card as a mandatory

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document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

27. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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 in Mohammad Hakim's case (supra) 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 a 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 is further held in Mohammad Hakim's case (supra) 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,

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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 separate ration 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 in Mohammad Hakim's case (supra) 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 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. 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 Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ

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Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

31. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ 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.

32. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of each 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

33. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

34. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation

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policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

35. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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.

36. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

37. 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 as enlisted in Clause 2 of the DDA policy, 2015.

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Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

38. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

39. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

40. It is pointed out that we have already held that the double storey Jhuggi No. N-207/136 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 and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

41. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the double storey Jhuggi No. N-207/136 as per the policy guidelines issued by DDA.

42. The Appellant/Claimant has tendered her Voter ID Card No. WHC 3634326 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of her claim.

43. It is pointed out that the Appellant/Claimant has tendered her Voter ID Card bearing number WHC 3634326 (Annexure-A) and it has been issued on 06.06.2022, much after the cutoff

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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. N-207/136 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.

44. The Appellant/Claimant has also tendered the Voter ID Card No. WHC 3634318 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of her husband Dinesh, Passbook of Union Bank (Annexure-G) and Electricity Bill (Annexure-H) in support of her claim.

45. It is pointed out that the Appellant/Claimant has tendered the Voter ID Card bearing No. WHC 3634318 (Annexure-D) of her husband Dinesh and it has been issued on 05.06.2022, 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 2012 to 2015 does not arise. This shows that neither the Appellant/Claimant nor her husband Dinesh was having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. N-207/136, 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 (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. The Passbook of Union Bank (Annexure-G) shows that Appellant/Claimant has opened the account on 01.12.2016, much after the cutoff date of 01.01.2015. Furthermore, the Electricity Bill (Annexure-H) shows that the electricity connection has been taken by the Appellant/Claimant on 02.11.2021, 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 issued on the address of Jhuggi No. N-207/136 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,

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

46. 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.

47. 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 having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. N-207/136 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-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.

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48. 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-Fresh/220 dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

49. 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: 53 of 2024

Date of Institution: 12.07.2023

Date of Order: 10.06.2024

Present: Appellant/ Claimant Rita Nishad W/o Parmanand Nishad

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 two Representations to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. D-24 as well as in Jhuggi bearing No. F-160, 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 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. D-24 as well as Jhuggi bearing No. F-160 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment and further it was found that the Appellant/ Claimant had submitted two representations for

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claiming allotment against Jhuggi No. D-24 as well as Jhuggi No. F-160. Hence, the Eligibility Determination Committee has rejected both of claims of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its orders bearing No. 350/Fresh/173/ dated 01.07.2023 against Jhuggi No. D-24 and another bearing No. 350/83/23.1 dated 01.07.2023 against Jhuggi No. F-160 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 53 of 2024 thereby challenging both the rejection orders 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-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. 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 records, the Appellant/ Claimant's Jhuggi bearing No. D-24 as well as Jhuggi bearing No. F-160 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 Orders bearing No. 350/Fresh/173/ dated 01.07.2023 against Jhuggi No. D-24 whereby the reasons for rejection is mentioned to be **"Dual Allotment in place of one Jhuggi not permissible"** and another bearing No. 350/83/23.1 dated 01.07.2023 against Jhuggi No. F-160 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

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least 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. D-24 as well as in Jhuggi bearing No. F-160 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Rita Nishad has been recorded before us on 18.04.2024 wherein she has stated that her parents, Baij Nath & Sheela, are having three sons; Brijesh, Ajay & Vijay and three daughters; Sharda, Sarita & Rita. All the children except Ajay are married. Brijesh is married with Kiran and having three children; Vinita, Jhanvi & Kanak. Vijay is married with Kajal but they are not having any issues. Sharda is married with Umesh and she is living in her matrimonial home in Wazirpur Industrial Area, Delhi. Sarita is married with Suraj and she is living on rent in Jailorwala Bagh, Ashok Vihar, Delhi. Rita (Appellant/Claimant) is married with Parmanand and having four children, Dolly, Kumkum, Jhanvi & Tushar.

9. The Appellant/Claimant has stated that her parents, Baij Nath & Sheela, are having a double storey Jhuggi No. F-160, Jailorwala Bagh, Ashok Vihar and it comprise of one room on the ground floor and two rooms on the first floor. Her parents, Baij Nath & Sheela along with their unmarried son Ajay & family of Vijay are living on the ground floor in the Jhuggi No. A-160 and regarding that DDA has made alternative allotment in favour of her mother Sheela. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that her brother Brijesh along with his family is living in one of the rooms on the first floor of the Jhuggi No. F-160 and regarding that Brijesh 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. 03 of 2024 before the Appellate Authority and the same is still pending. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that up to the year 2018 she was living in the second room on the first floor of the Jhuggi No. F-160 belonging to his parents. Thereafter, she had purchased the Jhuggi No. D-24 in the year 2018 from one Bharat Soni for a sale consideration of Rs. 1,50,000/-. At that time, it was a single storey kuchcha chappar and accordingly, it was demolished and she had constructed a double storey pucca Jhuggi and it comprises of one room on each floor. A bamboo ladder was placed inside the room on the ground floor and it was used for going to the upper floor but her daughter had fallen

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from the ladder and accordingly, this provision was closed and a bamboo ladder was placed outside in the gali and it was used for going to the upper floor. The Appellant/Claimant has sought allotment from DDA against the double storey Jhuggi No. D-24 but her claim has been rejected by Eligibility Determination Committee on the ground that her Voter ID Card could not be verified in spite of the fact that she has claimed allotment against the double storey Jhuggi No. D-24 and she is having all the requisite documents issued as per policy guidelines issued by DDA and further, on the Rejection Order, her address is mentioned to be Jhuggi No. F-160/D24 whereas she has claimed allotment against the double storey Jhuggi No. D-24 and she has not made double claim against the Jhuggi No. F-160 as well as against Jhuggi No. D-24 and accordingly, aggrieved by the same, she has filed the present Appeal No. 53 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.

12. It is pointed out that both the appeals bearing Appeal No. 03 of 2024 and Appeal No. 53 of 2024 shall be decided separately on their individual merits.

13. DDA has furnished survey records along with one video clip pertaining to the Jhuggi No. D-24. The video was played before the Appellant/Claimant when her statement was recorded before us on 18.04.2024 wherein she has stated that the video clip pertains to the Jhuggi No. D-24 in which the Appellant/Claimant is seen standing in front of her double storey pucca Jhuggi No. D-24 and her room & kitchen are also seen and a bamboo ladder placed inside the room on the ground floor and used for going to the upper floor is clearly seen and further, 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 "D-24 RITA NISHAD G+1" is clearly seen to have been written.

14. It is pointed out that the present Appellant/ Claimant has concocted a wrong & false story that she has claimed allotment against the double storey Jhuggi No. D-24 and she has not sought allotment against the Jhuggi No. F-160. But the material placed on file shows that she has made two Representations to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. D-24 as well as in Jhuggi bearing No. F-160, Jailorwala Bagh, Ashok Vihar. Further, as per survey records, the Appellant/ Claimant's Jhuggi bearing No. D-24 as well as Jhuggi bearing No. F-160 was found to exist but she had failed to submit

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required documents as per the policy guidelines for alternate allotment and accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Orders bearing No. 350/Fresh/173/ dated 01.07.2023 against Jhuggi No. D-24 whereby the reasons for rejection is mentioned to be **"Dual Allotment in place of one Jhuggi not permissible"** and another bearing No. 350/83/23.1 dated 01.07.2023 against Jhuggi No. F-160 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

Jhuggi bearing No. F-160, Jailorwala Bagh, Ashok Vihar

15. As already pointed out above, the Appellant/Claimant has stated that her parents, Baij Nath & Sheela, are having a double storey Jhuggi No. F-160, Jailorwala Bagh, Ashok Vihar and it comprises of one room on the ground floor and two rooms on the first floor and . the regarding the ground floor of Jhuggi No. A-160 DDA has made alternative allotment in favour of her mother Sheela. Further, her brother Brijesh has sought alternative allotment from DDA against one of the room on the first floor of the said Jhuggi No. F-160 but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 03 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has specifically stated in her statement made before us on 18.04.2024 that even though on the cutoff date of 01.01.2015 she was living on the first floor of Jhuggi No. F-160 but she has not sought alternative allotment from DDA against the first floor of the said Jhuggi No. F-160 and this admission shows that the Appellant/Claimant, who was living on the first floor of the said Jhuggi No. F-160, has not sought allotment from DDA and accordingly EDC has rightly rejected her claim vide Rejection Order bearing No. 350/83/23.1 dated 01.07.2023 against Jhuggi No. F-160.

Jhuggi bearing No. D-24, Jailorwala Bagh, Ashok Vihar

16. The Appellant/Claimant has stated that up to the year 2018 she was living in the second room on the first floor of the Jhuggi No. A-160 belonging to his parents. Thereafter, she had purchased the Jhuggi No. D-24 in the year 2018 from one Bharat Soni. At that time, it was a single storey kuchcha chappar and accordingly, it was demolished and she had constructed a double storey pucca Jhuggi and it comprises of one room on each floor. The

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Appellant/Claimant has sought allotment from DDA against the double storey Jhuggi No. D-24 but admittedly on the cutoff date of 01.01.2015 the Appellant/Claimant was living on the first floor of the Jhuggi No. F-160 belonging to her parents as she had shifted to Jhuggi No. D-24 in the year 2018. Accordingly, on the cutoff date of 01.01.2015 she was not living in Jhuggi No. D-24 and accordingly, she is not entitled to claim alternative allotment from DDA.

17. The admission of the Appellant/Claimant is a clincher piece of evidence because she has specifically stated that up to the year 2018, she along with her family was living with her parents in the Jhuggi No. F-160 and in the year 2018, she had purchased the Jhuggi No. D-24 from one Bharat Soni which was a kuchcha chappar and further, the Appellant/Claimant had constructed a double storey pucca structure. This shows that the Appellant/Claimant had purchased the Jhuggi No. D-24 and raised construction in the year 2018 and accordingly, the Appellant/Claimant was not living in the Jhuggi No. D-24, regarding which she is claiming allotment from DDA, on the cut off date of 01.01.2015 and accordingly EDC has rightly rejected her claim vide Rejection Orders bearing No. 350/Fresh/173/ dated 01.07.2023 against Jhuggi No. D-24.

18. Hence, the Eligibility Determination Committee has rightly rejected both the claims of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its orders bearing No. 350/Fresh/173/ dated 01.07.2023 against Jhuggi No. D-24 and another bearing No. 350/83/23.1 dated 01.07.2023 against Jhuggi No. F-160 to the present Appellant/ Claimant. 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.

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 Jhuggi bearing No. D-24 or Jhuggi bearing No. F-160, Jailorwala Bagh, Ashok Vihar as per the policy guidelines issued by DDA.

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20. 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.

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

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As envisaged in para above, the 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.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET 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

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but it is one of those 12 documents. The dweller may have any one of the documents out of the 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 alternative allotment if he possesses any one of the documents out of the list of 12 documents.

24. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET 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 separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

27. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

28. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact 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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate 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

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this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

30. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

31. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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 in Mohammad Hakim's case (supra) 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 a 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

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discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

33. It is further held in Mohammad Hakim's case (supra) 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 separate ration 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 in Mohammad Hakim's case (supra) 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 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. 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

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a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

35. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ 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.

36. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of each 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

37. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the**

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impugned judgment".

38. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

39. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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.

40. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

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GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

41. 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 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

42. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

43. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

44. 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 Jhuggi bearing No. D-24 or Jhuggi bearing No. F-160, Jailorwala Bagh, Ashok Vihar as per the policy guidelines issued by DDA.

45. The Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-E), two Aadhar Cards (Annexure-B & Annexure-F) and PAN Card (Annexure-G) in support of her claim.

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46. It is pointed out that the Appellant/Claimant has tendered her two Voter ID Cards and both the Voter ID Cards are bearing same number, i.e., WHC 2286078. The first Voter ID Card bearing number WHC 2286078 (Annexure-A) of the Appellant/Claimant has been issued on the address of the Jhuggi No. F-160 on 05.02.2018, 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. The second Voter ID Card bearing No. WHC 2286078 (Annexure-E) of the Appellant/Claimant has been issued on the address of the Jhuggi No. D-24 on 01.12.2020, much after the cut off date of 01.01.2015 and accordingly, the question of her name appearing in any of the Voter Lists of the years from 2012 to 2015 does not arise. Further, the first Aadhar Card (Annexure-B) of the Appellant/Claimant has also been issued on the address of the Jhuggi No. F-160 whereas the second Aadhar Card (Annexure-F) have been issued on the address of the Jhuggi No. D-24. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date 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 and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

47. The Appellant/Claimant has also tendered two Voter ID Cards (Annexure-C & Annexure-H), two Aadhar Cards (Annexure-D & Annexure-I) & Driving Licence (Annexure-K) of her husband Parmanand and Passbook of SBI (Annexure-L) in support of her claim.

48. It is pointed out that the Appellant/Claimant has tendered two Voter ID Cards (Annexure-C & Annexure-H) of her husband Parmanand and both the Voter ID Cards are bearing same number, i.e., WHC 2283463. The first Voter ID Card (Annexure-C) of her husband Parmanand is bearing No. WHC 2283463 and it has been issued on the address of the Jhuggi No. F-160 on 20.01.2018, 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. Furthermore, the second Voter ID Card (Annexure-H) of her husband Parmanand is bearing No. WHC 2283463 on 01.12.2020, 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. Further, the first Aadhar Card (Annexure-D) of the Appellant/Claimant has also been issued on the address of the Jhuggi No. F-160 whereas

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the second Aadhar Card (Annexure-I) have been issued on the address of the Jhuggi No. D-24. It is also pointed out that the Driving Licence (Annexure-K) of Parmanand has been issued on 23.10.2008 and the Passbook of SBI (Annexure-L) shows that the Parmanand has opened the account on 15.01.2014. The material placed on file shows that neither the Appellant/Claimant nor her husband Parmanand 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 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.

49. 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.

50. 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 specifically stated in her statement made before us on 18.04.2024 that even though on the cutoff date of 01.01.2015 she was living on the first floor of Jhuggi No. F-160 but she has not sought alternative allotment from DDA against the first floor of the said Jhuggi No. F-160 and this admission shows that the Appellant/Claimant, who was admittedly living on the first floor of the said Jhuggi No. F-160, has not sought allotment from DDA and accordingly EDC has rightly rejected her

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claim vide Rejection Order bearing No. 350/83/23.1 dated 01.07.2023 against Jhuggi No. F-160 AND further the Appellant/Claimant along with his family was not living on the cutoff date 01.01.2015 in Jhuggi No. D-24 regarding which she is claiming allotment from DDA because she had purchased the said Jhuggi No. D-24 in the year 2018 and accordingly EDC has rightly rejected her claim vide Rejection Orders bearing No. 350/Fresh/173/ dated 01.07.2023 against Jhuggi No. D-24 AND furthermore 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 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 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.

51. 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 both the claims. There is no infirmity and illegality in the impugned Rejection Order bearing No. 350/83/23.1 dated 01.07.2023 against Jhuggi No. F-160 and Rejection Orders bearing No. 350/Fresh/173/ dated 01.07.2023 against Jhuggi No. D-24. Hence the same are upheld. Consequently, the present appeal is dismissed being devoid of any merit.

52. Copy of this order be supplied to both the parties as per rules within three days from the

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date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.20232passed 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.

(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: 227 of 2024

Date of Institution: 25.07.2023

Date of Order: 10.06.2024

Present: Appellant/ Claimant Radhika Devi W/o Dinesh

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-196, 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-196 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. 350-10/60.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 227 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-E, 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 by Sh. Radhey Shyam Meena, Dy. Director, for DDA, 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-196 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-196 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Radhika Devi has been recorded before us on 24.04.2024 wherein she has stated that she is married with Dinesh and having four children; Vishal, Kishan, Karishma & Sonam. 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-196, Jailorwala Bagh, Ashok Vihar and it comprises of one room on each floor and an iron 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 she along with her husband Dinesh & all the four children; Vishal, Kishan, Karishma & Sonam is in living in the Jhuggi No. H-196 regarding which she is claiming allotment from DDA. But her claim has been rejected by Eligibility Determination Committee on the ground that her Voter ID Card could not be verified and further she was found to have been claiming allotment from DDA against the upper floor in spite of the fact that she has claimed allotment against the double storey Jhuggi No. H-196 and further 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. 227 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-E, 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. H-196. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. H-196 on 20.03.2020 on the ground floor of the said Jhuggi and her photographs 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. H-196. The video was played before the Appellant/Claimant when her statement was recorded before us on 24.04.2024 wherein she has stated that the video clip pertains to the Jhuggi No. H-196 in which the Jhuggi is clearly seen from outside to be a double storey structure and an iron ladder going form ground to the upper floor is seen 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 "H-196 RADHIKA DEVI G+1" is clearly 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. H-196. 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-196 was 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. H-196 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 and further the Appellant/Claimant has claimed alternative allotment against the said double storey Jhuggi.

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. H-196 as per the policy guidelines issued by DDA.

16. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-E, 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 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

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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. 350-10/60.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**
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
> 10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.

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

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

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

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

21. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET 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 separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

24. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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 one of the voter list of the

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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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

25. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact 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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor

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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 this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

27. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

28. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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 in Mohammad Hakim's case (supra) 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 a reliable source of proof of address since the scope is limited to distribution of food items by

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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 is further held in Mohammad Hakim's case (supra) 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 separate ration 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 in Mohammad Hakim's case (supra) 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 but any one of the 12

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documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. 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 Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

32. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ 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.

33. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of each 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

34. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has

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been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

35. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

36. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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.

37. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

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GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

38. 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 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

39. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

40. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

41. It is pointed out that we have already held that the double storey Jhuggi No. H-196 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 and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

42. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether

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her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the double storey Jhuggi No. H-196 as per the policy guidelines issued by DDA.

43. The Appellant/Claimant has tendered her Voter ID Card No. WHC 2326510 (Annexure-A) and Aadhar Card (Annexure-B) in support of her claim.

44. It is pointed out that the Appellant/Claimant has tendered her Voter ID Card bearing number WHC 2326510 (Annexure-A) and it has been issued on 30.03.2019, 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-196 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.

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

46. It is pointed out that the Appellant/Claimant has tendered the Electricity Bill (Annexure-C) and it shows that the electricity connection has been taken by her husband Dinesh on 17.05.2016. Furthermore, the Passbook of SBI (Annexure-E) shows that the account has been opened by the Appellant/Claimant on 22.01.2016 but it is pointed out that this account has been opened by her on the address of District Azamgarh, Uttar Pradesh and accordingly this document is not relevant to determine the eligibility of the Appellant/Claimant for claiming alternative allotment from DDA. It is also pointed out that the Appellant/Claimant has not tendered any documents pertaining to her family members except two documents (Annexure-D & Annexure-E) and more particularly the Aadhar Card as well as the Voter ID Card of her husband Dinesh issued on the address of Jhuggi No. H-196 regarding which she has been claiming allotment from DDA to show that he is having a Voter ID Card and it was used by him to cast vote in any of the elections and more particularly in the years from 2012 to 2015. This shows that neither the Appellant/Claimant nor her husband Dinesh was having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi

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No. H-196, 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 (prior to 01-01-2015) & also in the year of survey. 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-196 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.

47. 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.

48. 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 having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. H-196 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

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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 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.

49. 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. 350-10/60.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

50. 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: 229 of 2024

Date of Institution: 25.07.2023

Date of Order: 11.06.2024

Present: Appellant/ Claimant Ritu Devi D/o Ashok Shah W/o Titu

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. I-42, 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. I-42 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. 350-201/350/201/02.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 229 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-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 by Sh. Radhey Shyam Meena, Dy. Director, for DDA, 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. I-42 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"** 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. I-42 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Ritu Devi has been recorded before us on 24.04.2024 wherein she has stated that she is married with Titu and having three children; Dhiraj, Kajal & Pushpa. All the children are unmarried.

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9. The Appellant/Claimant has stated that she is having a double storey Jhuggi No. I-42, Jailorwala Bagh, Ashok Vihar 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. The Appellant/Claimant has sought allotment from DDA against the said double storey Jhuggi No. I-42 but her claim has been rejected by Eligibility Determination Committee on the ground that her Voter Card could not be verified in spite of the fact that she is claiming allotment from DDA against the double storey Jhuggi No. I-42 and further 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. 229 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. I-42. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. I-42 on 07.03.2020 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. I-42. The video was played before the Appellant/Claimant when her statement was recorded before us on 24.04.2024 wherein she has stated that the video clip pertains to the Jhuggi No. I-42 in which the Jhuggi is clearly seen from outside to be a double storey structure and an iron ladder going from ground to the upper floor is seen and further, the Appellant/Claimant is seen and getting the survey conducted and her room & kitchen are also seen. Further, she is also heard stating that her family is using the double storey structure for residential purposes and further, she is also seen holding a slate in her hand on which "I-42 RITU DEVI 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. I-42. 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. I-42 was 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. I-42 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 and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

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 double storey Jhuggi No. I-42 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 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

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year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-201/350/201/02.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.
> 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) - REQUIREMNET 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

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

20. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET 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 separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

23. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

24. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact 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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate 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 this

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Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

26. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

27. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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 in Mohammad Hakim's case (supra) 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 a 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

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

29. It is further held in Mohammad Hakim's case (supra) 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 separate ration 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 in Mohammad Hakim's case (supra) 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 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. 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.

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The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

31. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ 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.

32. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of each 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

33. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

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34. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

35. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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.

36. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

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37. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must

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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 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

38. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

39. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

40. It is pointed out that we have already held that the double storey Jhuggi No. I-42 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 and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

41. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the double storey Jhuggi No. I-42 as per the policy guidelines issued by DDA.

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42. The Appellant/Claimant has tendered her Voter ID Card No. WHC 3550183 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Letter No. F. No./AERO/AC-17/2023/126 dated 24.07.2023 (Annexure-F) and Voter List of the year 2022 (Annexure-G) in support of her claim.

43. It is pointed out that the Appellant/Claimant has tendered her Voter ID Card bearing number WHC 3550183 (Annexure-A) and it has been issued on 17.08.2020, 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. It is also pointed out that in the Letter No. F. No./AERO/AC-17/2023/126 dated 24.07.2023 (Annexure-F) issued by AERO-AC-17, Wazirpur, it is specifically mentioned that the name of the Appellant/Claimant does not exist in the Voter Lists from the year 2008 to 2020. Furthermore, the Appellant/Claimant has tendered the Voter List of the year 2022 (Annexure-G) in which the name of the Appellant/Claimant appears at Sl. No. 237 but this document pertaining to the post cutoff date of 01.01.2015 is not relevant to determine the eligibility of the Appellant/Claimant. The material placed on file shows that the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date 01.01.2015 issued on the address of the Jhuggi No.I-42, Jailorwala Bagh, regarding which she is claiming allotment from DDA and further, her name also does not appear in any of the Voter Lists of the year 2012 to 2015. 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. I-42 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.

44. That The Appellant/Claimant has also tendered the Electricity Bill (Annexure-D) and Passbook of Indian Bank (Annexure-E) in support of her claim.

45. It is pointed out that the Electricity Bill (Annexure-D) shows that the electricity connection has been taken by the Appellant/Claimant on 31.08.2020, much after the cutoff date of 01.01.2015. Furthermore, the Passbook (Annexure-E) of Indian Bank shows that the Appellant/Claimant has opened the account on 19.08.2017, much after the cutoff date of 01.01.2015. It is also pointed out that the Appellant/Claimant has not tendered the Voter ID

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Card of her husband Titu to show that he was having Voter ID card issued on the address of Jhuggi No. I-42 regarding which she has been claiming allotment from DDA. This shows that neither the Appellant/Claimant nor her husband Titu was having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. I-42, 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 (prior to 01-01-2015) & also in the year of survey. 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. I-42 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.

46. 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.

47. 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 having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. I-42 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.

48. 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. 350-201/350/201/02.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

49. 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: 35 of 2024

Date of Institution: 08.05.2023

Date of Order: 11.06.2024

Present: Appellant/ Claimant Shakuntala Devi W/o Dhaneshwar 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 she is living in Jhuggi bearing No. N-207/87-B, 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. N-207/87-B 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. 350-10/40.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 35 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 30.04.2024. 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 by Sh. Radhey Shyam Meena, Dy. Director, for DDA, 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. N-207/87-B 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"** 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-207/87-B as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Shakuntala Devi has been recorded before us on 30.04.2024 wherein she has stated that she is married with Dhaneshwar Prasad and having two sons; Jitender & Sachin and two daughters; Pinki & Priya. All the children are married.

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Jitender is married with Renu and having two children. Sachin is married with Anita and having one child. Pinki is married with Mukesh and she is living with her parents in Jailorwala Bagh, Ashok Vihar after her marriage. Priya is married with Manoj and she is living in her matrimonial home in District Pratapgarh, Uttar Pradesh.

9. The Appellant/Claimant has stated that she is having a double storey Jhuggi No. N-207/87-B, Jailorwala Bagh, Ashok Bihar and it comprise of one room on each floor and an iron ladder has been placed outside in the gali and it is used for going to the upper floor. The Appellant/Claimant has stated that she along with the families of her sons; Jitender & Sachin as well as the family of her daughter Pinki is living in the said Jhuggi No. N-207/87-B, Jailorwala Bagh. The Appellant/Claimant has sought allotment from DDA against the double storey Jhuggi No. N-207/87-B but her claim has been rejected by Eligibility Determination Committee on the ground that her Voter ID Card not verified 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. 35 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. N-207/87-B. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. N-207/87-B on 18.03.2020 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. N-207/87-B. The video was played before the Appellant/Claimant when her statement was recorded before us on 30.04.2024 wherein she has stated that the video clip pertains to the Jhuggi No. N-207/87-B in which the Jhuggi is clearly seen to be a double storey structure from outside and an iron ladder placed outside in the gali and used for going to the upper floor is also seen and further, the Appellant/Claimant is seen and getting the survey

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conducted and her room & kitchen on the ground floor are also seen. Further, she is also seen holding a slate in her hand on which "H-202 (N-207/87) SHANKUTLA DEVI 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. N-207/87-B. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. N-207/87-B was 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. N-207/87-B 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 and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

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 double storey Jhuggi No. N-207/87-B 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-L, 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

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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. 350-10/40.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

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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.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET 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 the 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 alternative allotment if he possesses any one of the documents out of the list of 12 documents.

20. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET 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 separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

23. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less

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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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

24. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact 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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was

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not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate 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 this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

26. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

27. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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 in Mohammad Hakim's case (supra) 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

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citizens of this country are provided food grains at a reasonable price. Hence, it is not a 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 is further held in Mohammad Hakim's case (supra) 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 separate ration 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 in Mohammad Hakim's case (supra) 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

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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 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. 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 Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

31. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ 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.

32. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of each 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

33. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High

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Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

34. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

35. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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.

36. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of

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Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

37. 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 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

38. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

39. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

40. It is pointed out that we have already held that the double storey Jhuggi No. N-207/87-B 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 and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

41. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite

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documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the double storey Jhuggi No. N-207/87-B as per the policy guidelines issued by DDA.

42. The Appellant/Claimant has tendered her Voter ID Card No. WHC 2238706 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of her claim.

43. It is pointed out that the Appellant/Claimant has tendered her Voter ID Card bearing number WHC 2238706 (Annexure-A) and it has been issued on 21.03.2017, 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. N-207/87-B 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.

44. The Appellant/Claimant has also tendered the Voter ID Card No. WHC 2238680 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of her husband Dhaneshwar, Electricity Bill (Annexure-G), Passbook of Union Bank (Annexure-H), Voter ID Card No. DL/04/053/270120 (Annexure-I), Death Certificate (Annexure-J) & Aadhar Card (Annexure-L) of her father Kallu as well as Electricity Bill (Annexure-K).

45. It is pointed out that the Appellant/Claimant has tendered the Voter ID Card bearing No. WHC 2238680 (Annexure-D) of Dhaneshwar and it has been issued on 21.03.2017, 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 2012 to 2015 does not arise. This shows that neither the Appellant/Claimant nor her husband Dhaneshwar was having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. N-207/87-B, 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 (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. The Electricity Bills (Annexure-G &

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Annexure-K) shows that two separate electricity connections had been taken by her husband Dhaneshwar as well as her father Kallu on 22.03.2012. The Passbook of Union Bank (Annexure-H) shows that Appellant/Claimant has opened the account on 01.12.2016, much after the cutoff date of 01.01.2015. The Voter ID Card No. DL/04/053/270120 (Annexure-I) of Kallu shows that it has been issued on 03.08.1995 and his Death Certificate (Annexure-J) shows that Kallu had died on 25.07.2014 but no Voter List has been placed on file to show that Kallu had used ever used his Voter ID Card to cast vote in any of the elections in his lifetime. 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. N-207/87-B 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.

46. 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.

47. 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 having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. N-207/87-B 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

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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.

48. 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. 350-10/40.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

49. 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: 230 of 2024

Date of Institution: 25.07.2023

Date of Order: 13.06.2024

Present: Appellant/ Claimant Sushma Devi W/o Shripat D/o Banwari Lal

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 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-192, 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-192 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. 350-10/61.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 230 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-N, 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 by Sh. Radhey Shyam Meena, Dy. Director, for DDA, 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-192 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-192 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Sushma Devi has been recorded before us on 24.04.2024 wherein she has stated that she is married with Shripat and having two children; Sakshi & Shiva. Both the children are unmarried.

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9. The Appellant / Claimant has stated that she is having a double storey Jhuggi No. H-192, Jailorwala Bagh, Ashok Vihar and it comprises of one room on each floor and an iron 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 she along with her husband Shripat and both the children; Sakshi & Shiva, is living in the said double storey Jhuggi No. H-192 regarding which she is claiming allotment from DDA. But her claim has been rejected by Eligibility Determination Committee on the ground that her Voter ID Card could not be verified and further she has been found claiming allotment against the upper floor in spite of the fact that she has claimed allotment against the double storey Jhuggi No. H-192 and she is having all the requisite documents issued as per policy guidelines issued by DDA and accordingly, aggrieved by the same, she has filed the present Appeal No. 230 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-N, 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. H-192. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. H-192 on 20.03.2020 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.

12. DDA has furnished survey record along with one video clip pertaining to the Jhuggi No. H-192. The video was played before the Appellant/Claimant when her statement was recorded before us on 24.04.2024 wherein she has stated that the video clip pertains to the Jhuggi No. H-192 in which the Jhuggi is clearly seen from outside to be a double storey structure and an iron ladder going form ground to the upper floor is seen and further, the Appellant/Claimant is seen and getting the survey conducted and her room & kitchen are also seen. Further, she is also heard stating that her family is using the double storey structure for residential purposes and further, she is also seen holding a slate in her hand on which "H-192 SUSHMA DEVI G+1" is clearly 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. H-192. 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-192 was 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. H-192 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 and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

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. H-192 as per the policy guidelines issued by DDA.

16. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-N, 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 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

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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. 350-10/61.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 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
> 10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
> 11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

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As envisaged in para above, the 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) - REQUIREMNET 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 the

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

21. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET 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 separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

24. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the

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dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

25. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact 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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate 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 this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the

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second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

27. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

28. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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 in Mohammad Hakim's case (supra) 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 a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

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30. It is further held in Mohammad Hakim's case (supra) 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 separate ration 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 in Mohammad Hakim's case (supra) 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 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. 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 Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate

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alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

32. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ 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.

33. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of each 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

34. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

35. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal

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position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

36. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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.

37. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

38. 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

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documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

39. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

40. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

41. It is pointed out that we have already held that the double storey Jhuggi No. H-192 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 and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

42. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the double storey Jhuggi No. H-192 as per the policy guidelines issued by DDA.

43. The Appellant/Claimant has tendered her Voter ID Card No. WHC 3576311 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-D) in support of her claim.

44. It is pointed out that the Appellant/Claimant has tendered her Voter ID Card bearing number WHC 3576311 (Annexure-A) and it has been issued on 06.02.2021, much after the cutoff date of 01.01.2015 and accordingly, the question of her name appearing in any of the Voter List of

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the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. The Appellant/Claimant has specifically stated that prior to issuance of this Voter ID Card (Annexure-A), she was having a Voter ID Card issued on the address of her native village HireKa Purba, District Pratapgarh, Uttar Pradesh and thereafter, she has got the Voter ID Card (Annexure-A) issued on the address of Jailorwala Bagh in the year 2021. This shows that the Appellant/Claimant has specifically admitted that she was not having Voter ID Card issued on the address of Jhuggi No. H-192 regarding which she has been 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-192 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.

45. The Appellant/Claimant has also tendered the Voter ID Card WHC 3676936 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of her daughter Sakshi, Aadhar Card (Annexure-G) of her son Shiva, Passbooks of Union Bank (Annexure-H & Annexure-I), Electricity Bill (Annexure-J), Gas Connection document (Annexure-K), her e-Shram Card (Annexure-L), Aadhar Card (Annexure-M) & e-Shram Card (Annexure-N) of her husband Shripat.

46. It is pointed out that the Appellant/Claimant has tendered Voter ID Card No. WHC 3676936 (Annexure-D) of Sakshi has been issued on 21.11.2023, much after the cutoff date of 01.01.2015. The Passbook (Annexure-H) of Union Bank of India shows that her son Shiva had opened the account on 20.08.2016, much after the cutoff date of 01.01.2015. The Passbook (Annexure-I) of Union Bank of India shows that her daughter Sakshi had opened the account on 13.08.2015, much after the cutoff date of 01.01.2015. The Electricity Bill (Annexure-J) shows that the electricity connection has been taken by the Appellant/Claimant on 25.02.2010. The Gas Connection document (Annexure-K) shows that the Appellant/Claimant has taken the gas connection on 12.03.2020, much after the cutoff date of 01.01.2015. It is also pointed out that the Appellant/Claimant has not tendered the Voter ID Card & Aadhar Card of her husband Shripat to show that he was having documents issued on the address of Jhuggi No. H-192 regarding which the Appellant/Claimant has been claiming allotment from DDA. This shows that neither the Appellant/Claimant nor her husband Shripat was having a

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valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. H-192, 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 (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. 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-192 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.

47. 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.

48. 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 having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. H-192 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

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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-N, 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.

49. 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. 350-10/61.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

50. 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: 196 of 2024

Date of Institution: 19.07.2023

Date of Order: 13.06.2024

Present: Appellant/ Claimant Naresh Maurya S/o Kallu Maurya

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-75/3, 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-75/3 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. 350-201/45.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 196 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 27.05.2024. 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. 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-75/3 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-75/3 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant has been recorded before us on 27.05.2024, wherein he has stated that he is married with Santoshi Devi and having four daughters, Komal, Sonam, Suman & Priyanshi. All the children are unmarried.

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9. The Appellant/Claimant has stated previously he was living on rent in Wazirpur, Delhi. Afterward, he had shifted to Jhuggi No. A-75/3, Jailorwala Bagh, Ashok Vihar and started living there. The Appellant/Claimant has stated that the Jhuggi No. A-75/3 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.

10. The Appellant/Claimant has stated that he has sought allotment from DDA against the said double storey Jhuggi No. A-75/3 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 has sought allotment from DDA against the double storey Jhuggi No. A-75/3 and further he is having all the requisite documents as per the policy guidelines issued by DDA and accordingly aggrieved by the same he has filed the present Appeal No. 196 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-N, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. It is pointed out that the Appellant/Claimant has stated that previously he was living on rent in Wazirpur, Delhi and afterward he had shifted to Jhuggi No. A-75/3, Jailorwala Bagh, Ashok Vihar and started living there. However, his statement is vague & evasive in nature because he has not stated the date, month & year of his shifting to Jhuggi No. A-75/3, Jailorwala Bagh, Ashok Vihar.

12. DDA has furnished survey records along with one video clip of Jhuggi No. A-75/3. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. A-75/3 on 09.03.2020 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 Santoshi, 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.

13. DDA has furnished the survey records along with two video clips of Jhuggi No. A-75/3 The video clip was played before the Appellant/Claimant when his statement was recorded before us on 27.05.2024 wherein the Appellant/Claimant has stated that the video clip

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pertains to Jhuggi No. A-75/3 in which his wife Santoshi is seen and getting the survey conducted and from outside the Jhuggi is clearly seen to be a double storey structure and further, his room & kitchen on the ground floor are seen and Santoshi is heard stating that the entire family is living in the double storey structure and further, she is also seen holding a slate in her hand on which "A-75 NARESH MOURYA 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. A-75/3. 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-75/3 was 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. A-75/3 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

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-75/3 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-N, 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. 350-201/45.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 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.

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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) - REQUIREMNET 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 the 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 alternative allotment if he possesses any one of the documents out of the list of 12 documents.

22. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET 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 separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card,

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will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

25. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

26. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact 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

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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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate 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 this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

28. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

29. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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 in Mohammad Hakim's case (supra) that ration card is issued exclusively for

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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 a 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 is further held in Mohammad Hakim's case (supra) 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 separate ration 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 in Mohammad Hakim's case (supra) 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

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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 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. 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 Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

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

34. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of ~~each~~ which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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

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documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

35. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

36. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

37. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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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38. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

39. 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 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

40. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

41. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

42. It is pointed out that we have already held that the double storey Jhuggi No. A-75/3 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the

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said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

43. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi No. A-75/3 as per the policy guidelines issued by DDA.

44. The Appellant/Claimant has tendered his Voter ID Card No. WHC 1809317 (Annexure-A), Aadhar Card (Annexure-B) & PAN Card (Annexure-C), Letter dated 18.07.2023 (Annexure-I) of AERO, AC-17, Wazirpur, Voter List of the year 2018 (Annexure-J), Voter List of the year 2019 (Annexure-K), Voter List of the year 2020 (Annexure-L), Voter List of the year 2022 (Annexure-M) and Voter List of the year 2023 (Annexure-N) in support of his claim.

45. It is pointed out that the Voter ID Card No. WHC 1809317 (Annexure-A) of the Appellant/Claimant has been issued on 06.03.2017, much after the cutoff date 01.01.2015 and accordingly, the question of his name appearing in the Voter List of the years from 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey does not arise.

46. It is pointed out that the Appellant/Claimant has stated that previously he was living on rent in Wazirpur and accordingly, the Voter ID Card No. WHC 1809317 (Annexure-A) was originally got issued on the address of Wazirpur and thereafter, got the address changed and accordingly, the Voter ID Card (Annexure-A) bearing the same number i.e., WHC 180931 was got issued on the address of Jhuggi No. A-75/3 Jailorwala Bagh, Ashok Vihar regarding which the Appellant/Claimant has been claiming allotment from DDA. It is also pointed out that the Appellant/Claimant has tendered the Letter dated 18.07.2023 (Annexure-I) of AERO, AC-17, Wazirpur wherein it is mentioned that as per the records of the election commission the name of the Appellant/Claimant does not appear in the Voter List of the years from 2012 to 2017 thereby showing that the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 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. This shows that the Appellant/Claimant has come forward with a wrong & false story that

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previously he was having the Voter ID Card No. WHC 1809317 issued on the address of Wazirpur where he was living on rent because had it been so his name would have been reflected in the records of the election commission from 2012 to 2017.

47. It is pointed out that the name of the Appellant/Claimant appears at Sl. No. 19 in the Voter List of the year 2018 (Annexure-J), at Sl. No. 19 in the Voter List of the year 2019 (Annexure-K), at Sl. No. 20 in the Voter List of the year 2020 (Annexure-L), at Sl. No. 20 in the Voter List of the year 2022 (Annexure-M) and at Sl. No. 20 in the Voter List of the year 2023 (Annexure-N) and in these Voter Lists the number of his Voter ID Card is mentioned to be bearing number WHC 1809317 and his address is mentioned to be Jhuggi No. A-75/3. But as already pointed out above the Voter ID Card No. WHC 1809317 (Annexure-A) of the Appellant/Claimant has been issued on 06.03.2017, much after the cutoff date 01.01.2015 and the Voter Lists, (Annexure-J to Annexure-N) pertains to the post cutoff date of 01.01.2015 and accordingly these documents are not material to determine the eligibility of the Appellant/Claimant.

48. 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-75/3, 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.

49. The Appellant/Claimant has also tendered Voter ID Card No. WHC1911857 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Santoshi, the Electricity Bill (Annexure-G) and Ration Card (Annexure-H).

50. It is pointed out that the Voter ID Card No. WHC1911857 (Annexure-D) of his wife Santoshi has been issued on the address of 07.04.2017, much after the cutoff date 01.01.2015 and accordingly, the question of her name appearing in the Voter List of the years from 2012 to 2015 does not arise. The material placed on file shows that neither the Appellant/Claimant nor his wife Santoshi was 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-75/3, 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

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of survey. The Electricity Bill (Annexure-G) shows that the electricity connection was taken by the Appellant/Claimant on 10.11.2014. The Ration Card No. 077005004493 (Annexure-H) has been issued in favour of his wife Santoshi and the name of the Appellant/Claimant is mentioned and this Ration Card has been issued on 21.05.2015, 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 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-75/3, 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.

51. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly accordingly to the merit of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

52. 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-75/3, 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-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.

53. 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. 350-201/45.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

54. 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: 236 of 2024

Date of Institution: 27.07.2023

Date of Order: 18.06.2024

Present: Appellant/ Claimant Seeta Devi W/o Bal Mukund

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. C-19, 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. C-19 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. 350-74/29.1 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 236 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-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 by Sh. Radhey Shyam Meena, Dy. Director, for DDA, 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-19 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 **"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 & separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of the said double storey Jhuggi No. C-19 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Seeta Devi has been recorded before us on 24.04.2024 wherein she has stated that her in-laws, Jeerat Ram & Parma Devi, are having four sons; Ajay, Indradev, Bal Mukund & Chotelal. Both the parents, Jeeram Ram & Parma Devi, are living in their native village in District Azamgarh, Uttar Pradesh. All the children are

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married. Ajay is married with Usha Devi and having one child. Indradev is married with Paana Devi and having four children and they are living in their native village in District Azamgarh, Uttar Pradesh. Chotelal is married whit Gyani Devi and having three children and they are living in their native village in District Azamgarh, Uttar Pradesh. Bal Mukund is married with Seeta Devi (Appellant/Claimant) and having three children; Sunny, Sandesh & Sonam.

9. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. C-19, Jailorwala Bagh, Ashok Vihar and it comprises of one room on each floor and an iron 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 Ajay along with his wife Usha Devi & the child is living on the ground floor of the Jhuggi No. C-19 and regarding that DDA has made allotment in favour of Usha Devi. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that she along with her husband Bal Mukund and all the three children; Sunny, Sandesh & Sonam, is living on the first floor of the said Jhuggi No. C-19, Jailorwala Bagh. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. C-19 but her claim has been rejected by Eligibility Determination Committee on the ground of 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. 236 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.

12. DDA has furnished survey records along with one video clip of Jhuggi No. C-19. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. C-19 on 19.03.2020 on the ground floor of the said Jhuggi and her photographs & that of her 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.

13. DDA has furnished survey record along with two video clips pertaining to the Jhuggi No. C-19. The videos were played before the Appellant/Claimant when her statement was recorded before us on 25.04.2024 wherein she has stated that the first video clip pertains to

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the ground floor of the Jhuggi No. C-19 in which Ajay is seen standing outside of the Jhuggi No. C-19 and getting the survey conducted on behalf of his wife Usha Devi and further, their room & kitchen are also seen and further, he is also heard stating that Seeta Devi is living on the upper floor and further, Ajay is also seen holding a slate in his hand on which "C-19 USHA DEVI G.F." is seen to have been written. The second video clip pertains to the first floor of the Jhuggi No. C-19 in which the Appellant/Claimant is seen and further, an iron ladder going from outside to the upper floor is clearly seen and the room & kitchen of the Appellant/Claimant is also seen and further, she is also seen holding a slate in her hand on which "C-19 SITA DEVI 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. C-19. 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-19 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and Ajay along with his wife Usha Devi & the child is living on the ground floor of the Jhuggi No. C-19 and regarding that DDA has made allotment in favour of Usha Devi and further the Appellant/Claimant along with her family is living on the first floor of the said double storey Jhuggi for residential purposes.

15. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-19 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 for residential purposes and further the Appellant/Claimant has claimed alternative allotment against the first floor of the said double storey Jhuggi No. C-19 as per the policy guidelines issued by DDA.

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 & separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of the said double Jhuggi No. C-19 as per the policy guidelines issued by DDA.

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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 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. 350-74/29.1 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 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.

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

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

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

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

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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) - REQUIREMNET 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 the 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 alternative allotment if he possesses any one of the documents out of the list of 12 documents.

22. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET 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 separate

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ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

25. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

26. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact 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

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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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate 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 this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

28. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

29. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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.

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30. It is further held in Mohammad Hakim's case (supra) 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 a 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 is further held in Mohammad Hakim's case (supra) 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 separate ration 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 in Mohammad Hakim's case (supra) 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

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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 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. 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 Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

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

34. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of ~~each~~ which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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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SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

35. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

36. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

37. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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.

38. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned

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Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

39. 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 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

40. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

41. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

42. It is pointed out that we have already held that the double storey Jhuggi No. C-19 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. C-19 for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi No. C-19. Accordingly, we have no hesitation in holding that the parameters for the first floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

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43. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor of the said double storey Jhuggi No. C-19 as per the policy guidelines issued by DDA.

44. The Appellant/Claimant has tendered her Voter ID Card No. WHC 2219631 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of her claim.

45. It is pointed out that the Appellant/Claimant has tendered her Voter ID Card bearing number WHC 2219631 (Annexure-A) and it has been issued on 05.09.2016, 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. C-19 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.

46. The Appellant/Claimant has also tendered the Voter ID Card No. JPF 0717678 (Annexure-D) & Aadhar Card (Annexure-E) of her husband Bal Mukund, Passbook of IndusInd Bank (Annexure-F) and Passbook of Union Bank (Annexure-G) in support of her claim.

47. It is pointed out that the Appellant/Claimant has tendered the Voter ID Card of her husband Bal Mukund bearing No. JPF 0717678 (Annexure-D) and it has been issued on 22.07.2002, much prior to the cut off date of 01.01.2015 but the Appellant/Claimant has not tendered any Voter List to show that her husband Bal Mukund had ever used his Voter ID Card to cast vote in any of the elections and more particularly in the years from 2012 to 2015. Further, the Passbook of IndusInd Bank (Annexure-F) & Union Bank (Annexure-G) shows that Appellant/Claimant has opened the account on 26.12.2014 & 04.12.2018 respectively. Furthermore, the Appellant/Claimant has categorically admitted that she is not having separate Ration Card issued on the address of Jhuggi No. C-19 regarding which she has been

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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 her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card as well as a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. C-19 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.

48. 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.

49. 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 having a Voter ID Card as well as a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. C-19 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.

50. 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. 350-74/29.1 dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

51. 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: 20 of 2024

Date of Institution: 04.05.2023

Date of Order: 18.06.2024

Present: Appellant/ Claimant Chinta Devi W/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 she is living in Jhuggi bearing No. C-312(N-207/292), 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. C-312(N-207/292) 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/

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Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-74/12.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 20 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-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. 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. C-312(N-207/292) 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*"** 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. C-312(N-207/292) as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Chinta Devi has been recorded before us on 24.04.2024 wherein she has stated that she is married with Ram Chander and having four

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children; Jitender, Deepak, Chanda & Rani. Jitender is married with Anjali but they are not having any issues whereas all the other siblings are unmarried.

9. The Appellant/Claimant has stated that she is having a single storey Jhuggi No. C-312 (N-207/292), Jailorwala Bagh, Ashok Vihar. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi No. C-312 (N-207/292) but her claim has been rejected by Eligibility Determination Committee on the ground that her Voter Card could not be verified 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. 20 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, 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 of Jhuggi No. C-312(N-207/292). As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. A- C-312(N-207/292) on 18.03.2020 on the said Jhuggi and her photograph & that of her 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. The Appellant/Claimant has categorically admitted that she has not got her Jhuggi videographed and accordingly, no video clip of her Jhuggi is available.

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 single storey Jhuggi No. C-312(N-207/292). Thus the statement of the Appellant/Claimant as well as the survey records has duly proved that the single storey Jhuggi No. C-312(N-207/292) was 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.

12. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. C-312(N-207/292) 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 and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi.

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

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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 Jhuggi No. C-312(N-207/292) 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. 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

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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."

16. 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) - REQUIREMNET OF DOCUMENTS

17. 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 the 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 alternative allotment if he possesses any one of the documents out of the list of 12 documents.

18. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

19. 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."

20. Thus Clause 1 (10) of Part–B of the DDA policy makes the requirement of having a separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

21. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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

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01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

22. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

23. 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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor

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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 this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

24. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

25. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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.

26. It is further held in Mohammad Hakim's case (supra) 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 a reliable source of proof of address since the scope is limited to distribution of food items by

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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.

27. It is further held in Mohammad Hakim's case (supra) 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 separate ration 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.

28. It is further held in Mohammad Hakim's case (supra) 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 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

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has to be considered. 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 Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

29. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ 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.

30. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of ~~each~~ which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

31. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with

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the directions that **"Till further orders, there shall be stay of the impugned judgment".**

32. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

33. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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.

34. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

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GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

35. 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 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

36. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

37. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

38. It is pointed out that we have already held that the single storey Jhuggi No. C-312 (N-207/292) 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 and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

39. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to

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01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the single storey Jhuggi No. C-312 (N-207/292) as per the policy guidelines issued by DDA.

40. The Appellant/Claimant has specifically stated that she is not having any Voter ID Card issued on the address of the Jhuggi No. C-312 (N-207/292) regarding which she is claiming allotment from DDA 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.C-312(N-207/292), 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. The Appellant/Claimant has tendered the Voter ID Card No. JPF 0774141 (Annexure-A), Aadhar Card (Annexure-B) & PAN Card (Annexure-D) of her husband Ram Chander as well as her Aadhar Card (Annexure-C) and Electricity Bill (Annexure-E), Passbook of Union Bank (Annexure-F), old Ration Card bearing No. BPL 53160153 (Annexure-G) and new Ration Card 077002569062 (Annexure-H) in support of her claim.

42. It is pointed out that the Voter ID Card No. JPF 0774141 (Annexure-A) of her husband Ram Chander has been issued on 26.07.2003, much prior the cutoff date of 01.01.2015 but no Voter List has been tendered to show that her husband Ram Chander had used his Voter ID Card tocast vote in any of the elections and more particularly in the years from 2012 to 2015. It is pointed out that the Aadhar Card (Annexure-B) of her husband Ram Chander as well as that of the Appellant/Claimant (Annexure-C) has been issued on the address of the Jhuggi No. C-5 and not on the address of the Jhuggi No. C-312 (N-207/292), regarding which the Appellant/Claimant is claiming allotment from DDA and accordingly, both the documents are not relevant to determine the eligibility of the Appellant/Claimant. The Electricity Bill (Annexure-E) shows that the electricity connection has been taken by her husband Ram Chander on 05.03.2009. The Passbook of Union Bank (Annexure-F) shows that her husband Ram Chander has opened the account on 10.05.2002 but it has been opened on the address of District Mau, Uttar Pradesh and accordingly, it is not relevant to determine the eligibility of the Appellant/Claimant. The Appellant/Claimant has tendered the old Ration Card (Annexure-G) bearing No. BPL 53160153 and it has been issued in favour of her husband

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Ram Chander on 04.08.2008 and the name of the Appellant/Claimant is mentioned therein. Further, it is pointed out that the old Ration Card (Annexure-G) has been issued on the address of S-207/392 and accordingly, it is not relevant to determine the eligibility of the Appellant/Claimant. The new Ration Card (Annexure-H) is bearing No. 077002569062 and it has been issued in favour of the Appellant/Claimant and the name of her family members is mentioned but the date of issuance is not mentioned therein. Further, it is pointed out that the Ration Card (Annexure-H) has been issued on the address of the Jhuggi No. N 207/292. 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 valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. C-312(N-207/292) regarding which the Appellant/Claimant 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.

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.C-312(N-207/292), 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

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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 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.

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. 350-74/12.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: 179 of 2024

Date of Institution: 18.07.2023

Date of Order: 19.06.2024

Present: Appellant/ Claimant Krishna Yadav S/o Khelo Yadav

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-158, 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-158 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. 350-76/54.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 179 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-O, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. 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-158 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-158 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Krishna Yadav has been recorded before us on 29.04.2024 wherein he has stated that his parents, Khelo Yadav & Batesia Devi, are having three sons; Vijay, Rajesh & Krishna and one daughter; Kaushlya. Both the parents are living

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in their native village in District Koderma, Jharkhand. All the children are married. Kaushalya is married with Raju and she is living in her matrimonial home in District Koderma, Jharkhand. Rajesh is married with Shakunti and having three children; Ridhi, Ritik & Rishi and he is also living in his native village in District Koderma, Jharkhand. Vijay is married with Kaushalya and having two children; Neha & Payal. Krishna (Appellant/Claimant) is married with Kanchan and having three children; Aryan, Aditi & Arush.

9. The Appellant/Claimant has stated that his family and also the family of his brother Vijay are also living with his parents in District Koderma, Jharkhand whereas only Vijay & Krishna (Appellant/Claimant) are living in Jhuggi No. A-158, Jailorwala Bagh, Ashok Vihar, which is a single storey structure. The Appellant/Claimant has sought allotment from DDA but his claim has been rejected by Eligibility Determination Committee on the ground that he is found to have claimed allotment against upper floor and also that his Voter ID Card could not be verified in spite of the fact that he has sought allotment from DDA against the single storey Jhuggi No. A-158 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. 179 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-O, 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-158. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. A-158 on 22.11.2020 on the ground floor of the said Jhuggi and his photographs & also that of his brother are also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant and in the column of the details of the family members is mentioned. Further, at the time of conducing of videography the Appellant/Claimant was not present and accordingly no video clip is attached in token thereof.

11. DDA has furnished survey record along with one video clip. The video was played before the Appellant/Claimant when his statement was recorded before us on 29.04.2024 wherein he has stated that the video clip pertains to the Jhuggi No. A-158 in which the Jhuggi is clearly seen to be lying locked and on that Jhuggi, a nameplate is pasted on which ***"Krishan Yadav Jh No. A-158 Jailorwala Bagh Ashok Vihar Ph-II. DL 52"*** is clearly seen to have been written.

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12. The Appellant/Claimant has stated that at the time of survey, he had gone to attend the marriage of daughter of his brother and accordingly was not present in Jailorwala Bagh. The explanation put forward by the Appellant/Claimant cannot be believed because DDA has conducted extensive survey in Jailorwala Bagh, Ashok Vihar and it had consumed about two to three months and accordingly, the absence of the Appellant/Claimant at the time of survey for such a long time cannot be believed. Furthermore, if the Appellant/Claimant was not present in Jailorwala Bagh at the time of survey, then he could have made application/request to the DDA authority or to the survey team to get his Jhuggi surveyed/videographed but nothing of this sort was done. Therefore, not getting the Jhuggi surveyed/videographed creates doubt & suspicion.

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, about the existence of the single storey Jhuggi No. A-158. Thus the statement of the Appellant/Claimant as well as the survey records has duly proved that the single storey Jhuggi No. A-158 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-158 and using the same for residential purposes.

14. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. A-158 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. A-158 for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi.

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 single storey Jhuggi No. A-158 as per the policy guidelines issued by DDA.

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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-O, in support of his claim and prayed that DDA be directed to make allotment in his favour.

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

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

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

20. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET 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 separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

23. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

24. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact 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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate 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 this

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Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

26. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

27. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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 in Mohammad Hakim's case (supra) 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 a 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

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

29. It is further held in Mohammad Hakim's case (supra) 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 separate ration 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 in Mohammad Hakim's case (supra) 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 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. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made

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it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

31. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ 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.

32. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of ~~each~~ which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

33. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

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34. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

35. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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.

36. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

37. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must

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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 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

38. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

39. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

40. It is pointed out that we have already held that the single storey Jhuggi No. A-158 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

41. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the single storey Jhuggi No. A-158 as per the policy guidelines issued by DDA.

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42. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), Letter No. F. No./AERO/AC-17/2024 issued by AERO,AC-17, Wazirpur on 29.04.2024 (Annexure-G), Voter List of the year 2015 (Annexure-H), Voter List of the year 2016 (Annexure-I), Voter List of the year 2017 (Annexure-J), Voter List of the year 2018 (Annexure-K), Voter List of the year 2019 (Annexure-L), Voter List of the year 2020 (Annexure-M) and Voter List of the year 2022 (Annexure-N).

43. It is pointed out that the Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B) and both are bearing the same number i.e. WHC 2062271. However, the first Voter ID Card No. WHC 2062271 (Annexure-A) has been issued on 21.03.2014 on the address of WP-46, Wazirpur Village, Delhi and not on the address of the Jhuggi No. A-158, Jailorwala Bagh regarding which the Appellant/Claimant is claiming allotment from DDA and accordingly it is not relevant to determine the eligibility of the Appellant/Claimant.

44. The Appellant/Claimant has tendered Letter No. F. No./AERO/AC-17/2024 issued by AERO, AC-17, Wazirpur on 29.04.2024 (Annexure-G) thereby showing that in all the Voter Lists, his address is mentioned to be WP-46, Wajirpur Village, Delhi. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 1338 in the Voter List of the year 2015 (Annexure-H), at Sl. No. 671 in the Voter List of the year 2016 (Annexure-I), at Sl. No. 682 in the Voter List of the year 2017 (Annexure-J), at Sl. No. 701 in the Voter List of the year 2018 (Annexure-K), at SL. NO. 711 in the Voter List of the year 2019 (Annexure-L), at Sl. No. 743 in the Voter List of the year 2020 (Annexure-M) & at Sl. No. 761 in the Voter List of the year 2022 (Annexure-N). It is pointed out that in all the abovementioned Voter Lists of the year 2016 to 2020 & 2022 (Annexure-H to Annexure-N), the address of the Appellant/Claimant is mentioned to be WP-46, Wazirpur Village, Delhi and not the address of the Jhuggi regarding which he is claiming allotment from DDA and therefore, the Voter ID Card (Annexure-A) & Voter Lists (Annexure-H to Annexure-N) are not relevant to determine the eligibility of the Appellant/Claimant.

45. The Appellant/Claimant has tendered his second Voter ID card bearing No. WHC 2062271 (Annexure-B) and it has been issued on the address of the Jhuggi No. A-158, Jailorwala Bagh on 29.03.2022, much after the cutoff date 01.01.2015 and accordingly, the question of her name arising in any of the Voter Lists of the years from 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey does not arise.

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46. The material placed on file shows that the Appellant/Claimant was having Voter ID Card No. WHC 2062271 dated21.03.2014 (Annexure-A) issued on the address of WP-46, Wajirpur Village, Delhi but later on he had got his address changed to Jhuggi No. A-158, Jailorwala Bagh and got the second Voter ID Card (Annexure-B) issued on 29.03.2022. Thus, the fact remains that the Appellant/Claimant was not having a valid Voter ID Card issued on 01.01.2015 on the address of the Jhuggi No. A-158, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further, the name of the Appellant/Claimant also does not appear in any of the Voter Lists of the years from 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey thereby reflecting his address to be Jhuggi No. A-158, Jailorwala Bagh, therefore, the Appellant/Claimant is not entitled for claiming alternate allotment from DDA.

47. The Appellant/Claimant has tendered the Aadhar Card (Annexure-D) of his wife Kanchan, Electricity Bill (Annexure-E), Passbook of Bank of Baroda (Annexure-F) and Voter ID card bearing No. WHC 1278530 (Annexure-O) of his brother Vijay Yadav.

48. It is pointed out that the Appellant/Claimant has tendered the Aadhar Card (Annexure-D) of his wife Kanchan and it has been issued on the address of District Koderma, Jharkhand and not on the address of the Jhuggi No. A-158, Jailorwala Bagh, regarding which he is claiming allotment from DDA and accordingly, this document is not relevant. Furthermore, the Electricity Bill (Annexure-E) shows that the electricity connection has been taken by his brother Vijay Yadav on 02.09.2014 thereby showing that the Appellant/Claimant was not having electricity connection in his name. The Passbook of Bank of Baroda (Annexure-F) shows that Appellant/Claimant has opened the account on the address of the Jhuggi No. A-158, Jailorwala Bagh, on 21.07.2015, much after the cutoff date 01.01.2015. Furthermore, the Voter ID card bearing No. WHC 1278530 (Annexure-O) of his brother Vijay Yadav has been issued on 18.10.2008 on the address of WP-551, Wazirpur Village, Delhi and not on the address of the Jhuggi No. A-158, Jailorwala Bagh regarding which the Appellant/Claimant is claiming allotment from DDA and accordingly it is 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

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on the address of the Jhuggi No. A-158, 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.

49. 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.

50. 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-158, 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-O, 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

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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.

51. 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. 350-76/54.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

52. 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: 90 of 2024

Date of Institution: 12.07.2023

Date of Order: 19.06.2024

Present: Appellant/ Claimant Dilip Kumar S/o Budhu 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. C-16/N-207/21, 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 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-16/N-207/21 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,

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Jailorwala Bagh, duly communicated its order bearing No. 350/Fresh/176 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 90 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 04.06.2024 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. C-16/N-207/21 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-16/N-207/21 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Dilip Kumar has been recorded before us on 04.06.2024, wherein he has stated that he is married with Sonmati and having two sons, Suresh & Ritik and two daughters, Puja & Jyoti. All the children except Ritik are married.

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Suresh is married and he is living in his native village in Azamagarh, Uttar Pradesh. Puja and Jyoti are also married and they are living in their respective matrimonial home in Azamgarh, Uttar Pradesh.

9. The Appellant/Claimant has stated that he is having a single storey Jhuggi No. C-16/N-207/21. The Appellant/Claimant has sought allotment from DDA against the said single storey Jhuggi No. C-16/N-207/21 but his claim has been rejected by the Eligibility Determination Committee on the ground that his Voter ID Card could not be verified and he has claimed allotment from DDA against the upper floor in spite of the fact that he has claimed allotment against the single storey Jhuggi No. C-16/N-207/21 and further he is having all the requisite documents and accordingly aggrieved by the same he has filed the present Appeal No. 90 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. The Appellant/Claimant has stated that it is a case of fresh survey and accordingly he had not got the survey/videography conducted and the same is reflected in the Application (Annexure-G) made by him to the concerned DDA authority for conducting survey. Therefore, not getting the Jhuggi surveyed/videographed creates doubt & suspicion.

11. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case about the existence of the single storey Jhuggi No. C-16/N-207/21. Thus the statement of the Appellant/Claimant has duly proved that the single storey Jhuggi No. C-16/N-207/21 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. C-16/N-207/21 and using the same for residential purposes.

12. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. C-16/N-207/21 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. C-16/N-207/21 for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi.

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

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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 single storey Jhuggi No. C-16/N-207/21 as per the policy guidelines issued by DDA.

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

15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and 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

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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."

16. 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) - REQUIREMNET OF DOCUMENTS

17. As per Clause 1 (6) Part–Bof 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 the 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 alternative allotment if he possesses any one of the documents out of the list of 12 documents.

18. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

19. 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."

20. Thus Clause 1 (10) of Part–B of the DDA policy makes the requirement of having a separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

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21. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

22. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

23. 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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate 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 this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

24. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

25. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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.

26. It is further held in Mohammad Hakim's case (supra) 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

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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 a 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.

27. It is further held in Mohammad Hakim's case (supra) 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 separate ration 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.

28. It is further held in Mohammad Hakim's case (supra) 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

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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 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. 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 Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

29. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ 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.

30. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of ~~each~~ which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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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SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

31. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

32. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

33. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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.

34. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned

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Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

35. 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 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

36. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

37. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

38. It is pointed out that we have already held that the single storey Jhuggi No. A-158 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters

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for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

39. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the single storey Jhuggi No. C-16/N-207/21 as per the policy guidelines issued by DDA.

40. The Appellant/Claimant has tendered his Voter ID Card No. JPF0783365 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Letter bearing F.N0./AERO/AC-17/2024/181 dated 27.05.2024 (Annexure-F) of AERO, AC-17, Wazirpur in support of his claim.

41. It is pointed out that the Voter ID Card No. JPF 0783365 (Annexure-A) of the Appellant/Claimant has been issued on 29.07.2003, much prior to the cutoff date 01.01.2015. It is pointed out that the Appellant/Claimant has not tendered any Voter List to show that he had used his Voter ID Card No. JPF 0783365 (Annexure-A) to cast votes in any of the election and more particularly in the years from 2012 to 2015. However, Letter dated 27.05.2024 (Annexure-F) of AERO, AC-17, Wazirpur shows that the Voter ID Card No. JPF 0783365 (Annexure-A) could not be verified as per the records of the Election Commission and further his name also does not appear in the Voter List of the years from 2012 to 2015. This shows that Voter ID Card No. JPF 0783365 (Annexure-A) is not a valid document. We have no hesitation in holding that the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date 01.01.2015 issued on the address of the Jhuggi No. C-16/N-207/21 regarding which he is claiming allotment from DDA and further, the name of the Appellant/Claimant also does not appear in any of the Voter Lists of the years from 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey, therefore, the Appellant/Claimant is not entitled for claiming alternative allotment from DDA.

42. The Appellant/Claimant has tendered the Passbook of Bank of Baroda (Annexure-D) and the Ration card (Annexure-E) in his support.

43. It is pointed out that the Passbook of Bank of Baroda (Annexure-D) shows that the

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Appellant/Claimant had opened the account on 24.04.2017, much after the cutoff date 01.01.2015 on the address of Jhuggi No. C-16. The Ration Card No. BPL53230058 (Annexure-E) has been issued on the address of Jhuggi No. N-207/21 in favour of the Appellant/Claimant on 06.04.2010 and the name of his wife and children is mentioned. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. C-16/N-207/21, 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.

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 the Jhuggi No. C-16/N-207/21, 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

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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.

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 his claim. There is no infirmity and illegality in the impugned order bearing No. 350/Fresh/176 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: 81 of 2024

Date of Institution: 12.07.2023

Date of Order: 20.06.2024

Present: Appellant/ Claimant Ramsukh S/o Rameshar

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-226, 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-226 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/136 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 81 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 06.05.2024 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. 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-226 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-226 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Ram Sukh has been recorded before us on 06.05.2024 wherein he has stated that he is married with Bittan and having four sons; Sanjeev, Akshya, Sachin & Anil and one daughter; Manjita. Out of whom, Akshay, Sachin &

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Anil are unmarried. Manjita is married with Pankaj and she is living in her matrimonial home in Jailorwala Bagh, Ashok Vihar and regarding that DDA has made allotment in favour of Manjita against her matrimonial side. Sanjeev is married with Sita and having one child Rayas.

9. The Appellant/Claimant has stated that he is having a single storey Jhuggi bearing No. H-226, Jailorwala Bagh, Ashok Vihar 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 and further he has been found to be claiming allotment against the upper floor, in spite of the fact that he is claiming allotment against the single storey Jhuggi H-226 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. 81 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.

10. DDA has furnished survey records along with one video clip of Jhuggi No. H-226. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. H-226 on the ground floor of the said Jhuggi. 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. The video was played before the Appellant/Claimant when his statement was recorded before us on 06.05.2024 wherein he has stated that the video clip pertains to the Jhuggi No. H-226 in which the Appellant/Claimant is seen and getting the survey conducted of the Jhuggi No. H-226 which is clearly seen to be a pucca structure and his room/kitchen are also seen and further, he is also seen holding a slate in his hand on which ***"H-226 RAM SUKH (NOT IN LIST) 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. H-226. 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-226 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date

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of 01.01.2015 and the Appellant/Claimant is living in the said single storey Jhuggi No. H-226 and using the same for residential purposes.

13. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. H-226 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. H-226 for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi.

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 single storey Jhuggi No. H-226 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 his 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 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.

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

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

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

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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."

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) - REQUIREMNET 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 the 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 alternative allotment if he possesses any one of the documents out of the list of 12 documents.

19. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

20. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy

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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 separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

22. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

23. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against

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the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact 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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate 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 this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

25. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

26. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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,

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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.

27. It is further held in Mohammad Hakim's case (supra) 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 a 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.

28. It is further held in Mohammad Hakim's case (supra) 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 separate ration 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

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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.

29. It is further held in Mohammad Hakim's case (supra) 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 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. 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 Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

30. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ 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.

31. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case

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(supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

32. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

33. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

34. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala

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Bagh, Ashok Vihar thereby holding that for claiming alternative 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.

35. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

36. 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 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

37. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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38. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

39. It is pointed out that we have already held that the single storey Jhuggi No. H-226 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

40. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the single storey Jhuggi No. H -226 as per the policy guidelines issued by DDA.

41. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), PAN Card (Annexure-D), Letter No. F. No./AERO/AC-17/2024/149 dated 22.04.2024 (Annexure-G) issued by AERO, AC-17 (Wazirpur) and Internet Report (Annexure-H) in support of his claim.

42. It is pointed out that the Appellant/Claimant has tendered two Voter ID Cards (Annexure-A & Annexure-B). The first Voter ID Card (Annexure-A) is bearing No. WHC 1124113 (Annexure-A) and it has been issued on 01.05.2014 but as per the Report (Annexure-H) downloaded from the internet this Voter ID Card could not be verified and this shows that this Voter ID Card is forged & fabricated document. Further, this fact is also corroborated by Letter No. F. No./AERO/AC-17/2024/149 dated 22.04.2024 (Annexure-G) issued by AERO, AC-17 (Wazirpur) wherein it is mentioned that his name does not appear in any of the Voter Lists of the year from 2012 to 2015 pertaining to the Voter ID Card No. WHC 1124113 (Annexure-A).

43. The second Voter ID Card (Annexure-B) is bearing No. WHC 3661956 and it has been issued on 02.07.2023, much after the cutoff date 01.01.2015. Furthermore, in the Letter No. F.

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No./AERO/AC-17/2024/149 dated 22.04.2024 (Annexure-G) issued by AERO, AC-17 (Wazirpur) it has been mentioned that as per the election records, no Voter Lists pertaining to the year 2012 to 2015 in available in respect of Voter ID Card No. WHC 3661956 (Annexure-B). It is also pointed out that the Aadhar Card (Annexure-C) of the Appellant/Claimant has been issued on 31.03.2016, much after the cutoff date of 01.01.2015 and this shows that the Appellant/Claimant has forged & fabricated the Voter ID Card (Annexure-A) in order to grab allotment from DDA by hook or crook and further, the Voter ID Card (Annexure-B) & Aadhar Card (Annexure-C) have been got issued by him much after the cutoff 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 cutoff date of 01.01.2015 issued on the address of the Jhuggi No. H-226, 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.

44. The Appellant/Claimant has tendered the Electricity Bill (Annexure-E) and Passbook of Indian Bank (Annexure-F) in support of his claim.

45. It is pointed out that the Electricity Bill (Annexure-E) shows that the electricity connection has been taken by the Appellant/Claimant on 14.11.2013. Furthermore, the Passbook of Indian Bank (Annexure-F) shows that Appellant/Claimant has opened the account on 30.01.2017, 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 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-226, 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.

46. 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.

47. 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-226, 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.

48. 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/136 dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being

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devoid of any merit.

49. 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: 214 of 2024

Date of Institution: 21.07.2023

Date of Order: 20.06.2024

Present: Appellant/ Claimant Anita D/o Jaggu W/o Pradeep

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-23, 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-23 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.350-15/29.2/ dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 214 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 22.04.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-N, 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-23 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 **"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 etc. 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-23 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Anita has been recorded before us on 22.04.2024 wherein she has stated that her in-laws, Jaggu & Samla, are having two sons; Sandip &

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Pradip and one daughter; Anita. Sandip & Pradip are unmarried. Anita (Appellant/Claimant) is married with Pradeep and she is living with her parents in their Jhuggi No. A-23, Jailorwala Bagh, Ashok Vihar.

9. The Appellant/Claimant has stated that her parents are having a triple storey Jhuggi bearing No. A-23, Jailorwala Bagh, Ashok Vihar and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali and it is used for going from the ground floor to the first floor and further on the first floor an iron ladder is placed and it is used for going to the second floor.

10. The Appellant/Claimant has stated that her parents, Jaggu & Samla, along with their unmarried sons; Sandip & Pradip as well as her cousin (children of her maternal aunt) are living on the ground & the first floor of the Jhuggi No. A-23 and regarding that DDA has made allotment in favour of her mother Samla. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that her cousin brother Ramesh S/o Lakhender has also sought allotment against the first floor of the Jhuggi No. A-23 but when her mother Samla came to know about that she had forced Ramesh to withdraw his claim for seeking alternative allotment from DDA.

12. The Appellant/Claimant has stated that she along with her husband Pradeep is living on the second floor of the Jhuggi No. A-23 and an iron ladder is placed on the first floor and it is used for going to her Jhuggi on the second floor. The Appellant/Claimant has sought allotment from DDA against the said second floor of the Jhuggi No. A-23 but her claim has been rejected by Eligibility Determination Committee on the ground of "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. 214 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-N, 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. A-23. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. A-23 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.

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Further, at the time of conducing of survey/videography the Appellant/Claimant was not present and accordingly her brother Sandip had got the survey/videography conducted on behalf of the Appellant/Claimant and the video clip is also attached in token thereof.

14. DDA has furnished survey record along with three video clips. The videos were played before the Appellant/Claimant when her statement was recorded before us on 22.04.2024 wherein she has stated that the first video clip pertains to the ground floor of the Jhuggi No. A-23 in which the Jhuggi is clearly seen to be a triple storey pucca structure from outside and a pucca staircase going from the gali to the first floor is seen and further, her mother Samla is seen and getting the survey conducted and further, her room & kitchen are also seen on the ground floor and she is also seen holding a state in her hand on which "A-23 SAMLA G" is clearly seen to have been written. The second video clip pertains to the first floor of the Jhuggi No. A-23 in which a pucca staircase going from outside the gali to the first floor is seen and further, her cousin Ramesh S/o Lakhender is seen and getting the survey conducted on the first floor of the Jhuggi No. A-23 and the room & kitchen are also seen and further, he is seen holding a slate in his hand on which "A-23 RAMESH SAROJ" is clearly seen to have been written. The third video clip pertains to the second floor of the Jhuggi No. A-23 in which her brother Sandip S/o Jaggu is seen and getting the survey conducted on behalf of the Appellant/Claimant and further, her room & kitchen are also seen and further, Sandip is also seen holding a slate in his hand on which "A-23 ANEETA S.F." is clearly seen to have been written

15. The admission of the Appellant/Claimant is a clincher piece of evidence because the Appellant/Claimant has specifically admitted that her parents, Jaggu & Samla, are having a triple storey Jhuggi No. A-23 and it comprises of one room on each floor and further, a pucca staircase has been constructed outside in the gali and it used for going to the first floor and on the first floor an iron ladder is placed and it is used for going to the second floor. Admittedly, the ground & the first floor belongs to her parents, Jaggu & Samla, and regarding that DDA has already made allotment in favour of Samla and further the Appellant/Claimant along wither family is living on the second floor of the said Jhuggi.

16. 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. A-23. Thus the statement of the

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Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey Jhuggi No. A-23 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and her parents, Jaggu & Samla, are living on the ground & the first floor of the said Jhuggi No.A-23 and regarding that DDA has already made allotment in favour of her mother Samla and further the Appellant/Claimant along with her family is living on the second floor of the said triple storey Jhuggi and the Appellant/Claimant is using the same for residential purposes.

17. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. A-23 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 floor of the said Jhuggi for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the second floor of the said triple storey Jhuggi.

18. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the second floor of the said triple storey Jhuggi No. A-23 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-N, in support of her claim and prayed that DDA be directed to make allotment in her 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. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration

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Card on the cut off date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she has claimed allotment against the second floor, which is not included in the definition of upper floor and further she was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No.350-15/29.2/ 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 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

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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) - REQUIREMNET 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 the 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 alternative allotment if he possesses any one of the documents out of the list of 12 documents.

24. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET 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 separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

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27. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

28. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact 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

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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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate 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 this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

30. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

31. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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 in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and

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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 a 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 is further held in Mohammad Hakim's case (supra) 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 separate ration 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 in Mohammad Hakim's case (supra) 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

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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 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. 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 Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

35. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ 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.

36. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of each 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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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SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

37. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

38. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

39. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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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40. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

41. 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 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

42. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

43. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

44. It is pointed out that we have already held that the triple storey Jhuggi No. A-23 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 floor of the same for residential purposes and further the Appellant/Claimant has claimed alternative

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allotment from DDA against the second floor of the said triple storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the upper floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

45. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the second floor of the said triple storey Jhuggi No. A-23 as per the policy guidelines issued by DDA.

46. Now we shall appraise the legal position as to whether the term "Upper Floor" used in DDA policy means only the first floor or it connotes all the floors including second & third floor also.

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

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

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

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

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

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

50. Thus we have no hesitation in holding that the words *"Upper Floor"* used in the DDA policy without confusion connotes and includes only the "First Floor" of the Jhuggi. Thus the "Second Floor" & "Third Floor" of the Jhuggi are not included in the definition of the words *"Upper Floor"* used in the policy. In simple terms the word "Upper Floor" only connotes the "First Floor" of the Jhuggi and it does not include the "Second Floor" & "Third Floor" of the Jhuggi. In view of the matter the words "upper floor" used in Part–B Para 10 of the DDA policy only denotes first floor and not all the floors above the first floor meaning thereby that the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor).

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

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claimed allotment against the second floor, which is not included in the definition of upper floor under Part–B Para 10 of the policy.

52. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the second floor of the said triple storey Jhuggi No. A-23 as per the policy guidelines issued by DDA.

53. The Appellant/Claimant has tendered her Voter ID Card bearing No. WHC 2139227 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Letter No. F. No./AERO/AC-17/2023/121 Dt. 18.07.2023, issued by AERO, AC-17 (Wazirpur) (Annexure-F), Voter List of the year 2015 (Annexure-G), Voter List of the year 2016 (Annexure-H), Voter List of the year 2017 (Annexure-I), Voter List of the year 2018 (Annexure-J), Voter List of the year 2019 (Annexure-K), Voter List of the year 2020 (Annexure-L), Voter List of the year 2022 (Annexure-M) & Voter List of the year 2023 (Annexure-N) in support of her claim.

54. It is pointed out that the Appellant/Claimant has tendered her Voter ID Card bearing number WHC 2139227 (Annexure-A) and it has been issued on 23.01.2015, 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 years from 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey does not arise. This fact is also reflected in Letter No. F. No./AERO/AC-17/2023/121 Dt. 18.07.2023 (Annexure-F), issued by AERO, AC-17 (Wazirpur) wherein it is mentioned that her name does not appear in the Voter list of 2012 to 2014. It is pointed out that the name of the Appellant/Claimant appears at Sl. No. 1727 in the Voter List of the year 2015 (Annexure-G), at Sl. No. 112 in the Voter List of the year 2016 (Annexure-H), at Sl. No. 118 in the Voter List of the year 2017 (Annexure-I), at Sl. No. 121 in the Voter List of the year 2018 (Annexure-J), at Sl. No. 120 in the Voter List of the year 2019 (Annexure-K), at Sl. No. 125 in the Voter List of the year 2020 (Annexure-L), at Sl. No. 134 in the Voter List of the year 2022 (Annexure-M) and at Sl. No. 133 in the Voter List of the year 2023 (Annexure-N). However, it is pointed out that all the Voter Lists (Annexure-G to Annexure-

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N) pertain to post cut-off period i.e. 01.01.2015, and accordingly are not relevant to determine the eligibility of the Appellant/Claimant. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having 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) & of the year of survey and further the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she has claimed allotment against the second floor, which is not included in the definition of upper floor under Part–B Para 10 of the policy and accordingly the Appellant/Claimant is not entitled to claim allotment from DDA.

55. The Appellant/Claimant has also tendered Electricity Bill (Annexure-D) and Ration Card bearing No. 077004185347 (Annexure-E) in support of her claim.

56. It is pointed out that the Appellant/Claimant has tendered the Electricity Bill (Annexure-D) and it shows that the electricity connection has been taken by her father Jaggu on 18.03.2009. Further, the Ration Card bearing No. 077004185347 (Annexure-E) has been issued in favour of her mother Samla and the name of the Appellant/Claimant has been mentioned therein but the date of issuance is not 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 her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having 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) & of the year of survey and further the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she has claimed allotment against the second floor, which is not included in the definition of upper floor under Part–B Para 10 of the policy and accordingly the Appellant/Claimant is not entitled to claim allotment from DDA.

57. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly 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.

58. 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 having 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) & of the year of survey and further the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she has claimed allotment against the second floor, which is not included in the definition of upper floor under Part–B Para 10 of the policy and accordingly the Appellant/Claimant is not entitled to claim allotment from 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-N, 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.

59. 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.350-15/29.2/ dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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60. 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: 77 of 2024

Date of Institution: 12.07.2023

Date of Order: 21.06.2024

Present: Appellant/ Claimant Dinesh S/o Baij 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. A-72, 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-72 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/Fresh/150 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 77 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 05.06.2024 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. 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-72 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-72 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Dinesh has been recorded before us on 05.06.2024 wherein he has stated that he is married with Hemlata and having two sons, Suraj & Ravi.

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9. The Appellant/Claimant has stated that he along with his family is living in a single storey Jhuggi No. A-72, Jailorwala Bagh, Ashok Vihar and it comprises of one room and having roof made with asbestos sheet. The Appellant/Claimant has stated that he has sought allotment from DDA against the said single storey structure Jhuggi No. A-72 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 has claimed allotment against the single storey structure Jhuggi No. A-72 and further, he is having all the requisite document as per the policy guidelines issued by DDA and accordingly, aggrieved by the same he has filed the present Appeal No. 77 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.

10. DDA has furnished survey records along with one video clip of Jhuggi No. A-72. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. A-72 on the ground floor of the said Jhuggi. 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-72. The video was played before the Appellant/Claimant when his statement was recorded before us on 05.06.2024 wherein the Jhuggi No. A-72 is clearly seen to be a pucca single storey structure and having roof made with asbestos sheet 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 **"A-72 DINESH (NOT IN THE LIST) GF"** 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. A-72. Thus the statement of the Appellant/Claimant as well as the survey records/video clip has duly proved that the single storey Jhuggi No. A-72 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-72 and using the same for residential purposes.

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13. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. A-72 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. A-72 for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi.

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 single storey Jhuggi No. A-72 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 his 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**
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.

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

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

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

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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) - REQUIREMNET 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 the 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 alternative allotment if he possesses any one of the documents out of the list of 12 documents.

19. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET 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

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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."

21. Thus Clause 1 (10) of Part–B of the DDA policy makes the requirement of having a separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

22. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

23. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of

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the fact 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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate 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 this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

25. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

26. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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

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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.

27. It is further held in Mohammad Hakim's case (supra) 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 a 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.

28. It is further held in Mohammad Hakim's case (supra) 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 separate ration 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

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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.

29. It is further held in Mohammad Hakim's case (supra) 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 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. 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 Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

30. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ 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.

31. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of ~~each~~ which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala

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Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

32. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

33. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

34. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala

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Bagh, Ashok Vihar thereby holding that for claiming alternative 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.

35. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

36. 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 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

37. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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38. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

39. It is pointed out that we have already held that the single storey Jhuggi No. A-72 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

40. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the single storey Jhuggi No. A-72 as per the policy guidelines issued by DDA.

41. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B) and Aadhar Card (Annexure-C) in support of his claim.

42. It is pointed out that the first Voter ID Card (Annexure-A) of the Appellant/Claimant is bearing number WHC 3627320 and it has been issued on 19.04.2022, much after the cutoff date 01.01.2015. Furthermore, the second Voter ID Card (Annexure-B) of the Appellant/Claimant is bearing number WHC 3677507 and it has been issued on 21.11.2023, much after the cutoff date 01.01.2015. Furthermore, the Appellant/Claimant has also failed to explain the reasons for getting two Voter ID Cards (Annexure-A & Annexure-B) issued and this creates doubt and suspicion.

43. It is pointed out that the Voter ID Cards (Annexure-A & Annexure-B) have been issued on the address of Jhuggi No. A-72 regarding which the Appellant/Claimant has been claiming allotment from DDA but both the Voter ID Cards (Annexure-A & Annexure-B) have been issued much after the cutoff date 01.01.2015 and accordingly, the question of his name appearing in 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

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01.01.2015 issued on the address of the Jhuggi No. A-72, 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.

44. The Appellant/Claimant has tendered Aadhar Card (Annexure-D) of his wife Hemlata, Aadhar Cards (Annexure-E & Annexure-F) of his sons, Suraj & Ravi, the Electricity Bill (Annexure-G) and the Passbook of Bank of Baroda (Annexure-H) in support of his claim.

45. The Appellant/Claimant has tendered Aadhar Card (Annexure-D) of his wife, Hemlata but he has categorically stated that till now his wife has not got the Voter ID Card issued in her favour on the address of the Jhuggi No. A-72 regarding which the Appellant/Claimant is claiming allotment from DDA. It is pointed out that the Aadhar Card (Annexure-D) of his wife, Hemlata has been issued on 16.03.2014 whereas Aadhar Card (Annexure-E) of his son, Suraj has been issued on 30.03.2016 and Aadhar Card (Annexure-F) of his son, Ravi has been issued on 02.01.2016. It is also pointed out that the Electricity Bill (Annexure-G) shows that the electricity connection has been taken by the Appellant/Claimant on 07.12.2021, much after the cutoff date 01.01.2015. Furthermore, the Passbook of Bank of Baroda (Annexure-H) shows that the Appellant/Claimant had opened the account on 06.01.2020, 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 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-72, 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.

46. 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

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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.

47. 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-72, 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.

48. 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/150 dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

49. 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

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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: 70 of 2024

Date of Institution: 12.07.2023

Date of Order: 21.06.2024

Present: Present: Appellant/ Claimant Urmila Devi (since deceased) W/o Rama Kant through her legal heir, Rama Kant (husband)

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 Urmila Devi (since deceased) had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. H-59, 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-59 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

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alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-20/0056.G dated 01.07.2023 to the legal heir of the present Appellant/ Claimant, who has since died on 13.04.2021. Aggrieved by the same, the present Appeal No. 70 of 2024 has been filed by her legal heir, Rama Kant (husband).

3. In response to the notice, Rama Kant (husband), legal heir of the present Appellant/ Claimant, Urmila Devi (since deceased) W/o Rama Kant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director.

4. The statement of Rama Kant (husband) has been recorded before us on 03.06.2024 and he has tendered documents, Annexure- A to Annexure- J, in support of the claim of the Appellant/ Claimant, Urmila Devi (since deceased). DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by Rama Kant (husband), legal heir of the present Appellant/ Claimant, Urmila Devi (since deceased) as well as Sh. Radhey Shyam Meena, Dy. Director, for DDA, 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. H-59 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 Urmila Devi (since deceased), 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 present Appeal No. 70 of 2024 has been filed by her legal heir, Rama Kant (husband).

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant Urmila Devi (since deceased). We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant Urmila Devi (since deceased) 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-59 as per the policy guidelines issued by DDA.

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8. The Appellant/Claimant, Urmila Devi has expired on 13.04.2021 and Death Certificate is Annexure-C and accordingly, her husband Rama Kant has appeared before us to make statement on the behalf of his wife Urmila (since deceased) as her Legal Heir.

9. The statement of Rama Kant has been recorded before us on 03.06.2024, wherein he has stated that he was married with Urmila and having one son, Ravi and four daughters, Saroja, Shalu, Babita & Kajal. Out of whom Ravi, Babita & Kajal are unmarried whereas Saroja is married with Ravi and she is living in her matrimonial home in Azadpur and Shalu is married and she is living in her matrimonial home in Jaunpur, Uttar Pradesh.

10. Rama Kant has stated that he along with his wife Urmila (since deceased) and all the three unmarried children, Ravi, Babita & Kajal, is living in a double storey Jhuggi No. H-59 and it comprises of one room on each floor and a bamboo ladder is placed in the gali and it is used for going to the upper floor.

11. Rama Kant has further, stated that his wife Urmila (since deceased) has sought allotment from DDA against the double storey Jhuggi No. H-59 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 from DDA against the upper floor in spite of the fact that the Appellant/Claimant Urmila (since deceased) has sought allotment from DDA against the double storey Jhuggi No. H-59 Jailorwala Bagh, Ashok Vihar and further, she was also having all the requisite documents as per the policy guidelines issued by DDA and accordingly aggrieved by the same he has filed the present Appeal No. 70 of 2024 before the Appellate Authority for redressal as her legal heir. Rama Kant has also tendered document, Annexure-A to Annexure-J, in support of the claim of the Appellant/Claimant, Urmila (since deceased) and prayed that DDA be directed to make allotment in favour of the Appellant/Claimant, Urmila (since deceased) and mutation to be sanctioned in his favour being the legal heir of Appellant/Claimant Urmila.

12. DDA has furnished survey records along with one video clip of Jhuggi No. H-59. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. H-59 on 18.03.2020 on the ground floor of the said Jhuggi and her photograph is annexed therewith in token thereof. Further, at the time of conducing of survey/videography Rama Kant, who is the husband 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.

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13. DDA has furnished the survey record along with one video clip pertaining to the Jhuggi No. H-59. The video clip was played before Rama Knat when his statement was recorded before us on 03.06.2024 and in that video clip the Jhuggi No. H-59 from outside is clearly seen to be a double storey structure and a bamboo ladder is placed outside in the gali and it is used for going to the upper floor. Furthermore, Rama Kant, who is the husband of the Appellant/Claimant, Urmila (since deceased) is seen and getting the survey conducted on the behalf of his wife Urmila and he is also heard stating that his wife Urmila had expired and further, the first floor is also occupied by his family and a room & kitchen on the ground floor are seen and further, Rama Kant is also seen holding a slate in his hand on which **"H-59 URMILA DEVI G+1"** is seen to have been written.

14. There is nothing to disbelieve the statement of Rama Kant 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-59. Thus the statement of Rama Kant as well as the survey records/video clip has duly proved that the double storey Jhuggi No. H-59 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant Urmila (since deceased) and her family is using the same for residential purposes.

15. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. H-59 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant Urmila (since deceased) along with her family was & is still using the same for residential purposes and further the Appellant/Claimant Urmila (since deceased) has claimed alternative allotment from DDA against the said double storey Jhuggi.

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 Urmila (since deceased) 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. H-59 as per the policy guidelines issued by DDA.

17. Rama Kant has stated that the claim of the Appellant/ Claimant Urmila (since deceased) has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents,

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Annexure-A to Annexure-J, in support of her claim and prayed that DDA be directed to make allotment in her favour and mutation be sanctioned in his favor being her legal heir.

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 Urmila (since deceased) 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 Urmila (since deceased) 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. 350-20/0056.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 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.

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

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

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

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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) - REQUIREMNET 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 the 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 alternative allotment if he possesses any one of the documents out of the list of 12 documents.

22. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET 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

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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."

24. Thus Clause 1 (10) of Part–B of the DDA policy makes the requirement of having a separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

25. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

26. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

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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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate 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 this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

28. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

29. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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

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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 in Mohammad Hakim's case (supra) 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 a 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 is further held in Mohammad Hakim's case (supra) 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 separate ration 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 in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions

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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 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. 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 Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

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

34. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of ~~each~~ which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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-

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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.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

35. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

36. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

37. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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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38. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

39. 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 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

40. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

41. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

42. It is pointed out that we have already held that the double storey Jhuggi No. H-59 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant Urmila (since deceased) along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no

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hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

43. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant Urmila (since deceased) as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the double storey Jhuggi No. H-59 as per the policy guidelines issued by DDA.

44. Rama Kant has categorically stated that his wife Urmila was not having any Voter ID Card issued on the address of the Jhuggi No. H-59 regarding which she has claimed allotment from DDA. Furthermore, Rama Kant has tendered the Aadhar Card (Annexure-A) & PAN Card (Annexure-B) of the Appellant/Claimant Urmila (since deceased) in support of the claim of the Appellant/Claimant Urmila (since deceased).

45. The admission of Rama Kant is a clincher piece of evidence and it shows that the Appellant/Claimant Urmila (since deceased) was not having a valid Voter ID Card on the cutoff date 01.01.2015 issued on the address of the Jhuggi No. H-59 regarding which she has claimed allotment from DDA and accordingly the question of her name appearing in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. The Aadhar Card (Annexure-A) of the Appellant/Claimant is bearing number 7698 800 5670 but the date of issuance is not mentioned. However, this document is not relevant to determine the eligibility of the Appellant/Claimant Urmila (since deceased) as she was not having mandatory required documents i.e., Voter ID Card 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, we have no hesitation in holding that the Appellant/Claimant Urmila (since deceased) was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. H-59 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 Urmila (since deceased) does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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46. Rama Kant has tendered his Voter ID Card No. WHC 3639069 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) as well as the Electricity Bill (Annexure-G), the Passbook of Union Bank of India (Annexure-H & Annexure-J) and Ration Card (Annexure-I) in support of the claim of the Appellant/Claimant Urmila (since deceased).

47. It is pointed out that Voter ID Card No. WHC 3639069 (Annexure-D) of Rama Kant, who is the husband of the Appellant/Claimant, has been issued on 20.10.2022, much after the cutoff date 01.01.2015. This shows that neither the Appellant/Claimant Urmila Devi (since deceased) nor her husband Rama Kant was having a valid Voter ID Card on the cutoff date 01.01.2015 issued on the address of the Jhuggi No. H-159 regarding which the Appellant/Claimant has been 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 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant Urmila (since deceased) does not fulfill the eligibility criteria as per the guidelines issued by DDA. It is also pointed out the Electricity Bill (Annexure-G) shows that Rama Kant, who is the husband of Urmila Devi (since deceased) had taken electricity connection on 14.11.2014. The Passbook of Union Bank (Annexure-H) of India shows that Rama Kant had opened the account on 25.07.2012 and the Passbook of Union Bank of India (Annexure-J) shows that the Appellant/Claimant Urmila (since deceased) had opened the account on 16.11.2017. Furthermore, the Ration Card No. 077005150720 (Annexure-I) has been issued in favour of the Appellant/Claimant Urmila (since deceased) and the name of her husband Rama Kant and another family member have been mentioned and further, this Ration Card has been issued on 19.08.2015, 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 Urmila (since deceased) 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 Urmila (since deceased) was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. H-59 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.

48. The material placed before us also shows that the Eligibility Determination Committee (EDC)

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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.

49. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant Urmila (since deceased) is not entitled to alternative allotment because as per our discussion above the Appellant/Claimant Urmila (since deceased) was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. H-59 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 Urmila (since deceased) does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant Urmila (since deceased) 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 Urmila (since deceased) 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 Urmila (since deceased) 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.

50. The Appellant/ Claimant Urmila (since deceased) has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant Urmila (since deceased) does

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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. 350-20/0056.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

51. 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: 14 of 2024

Date of Institution: 03.05.2023

Date of Order: 24.06.2024

Present: Appellant/ Claimant Bachi Devi W/o Jitender Chaudhary

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-129, 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-129 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. 350-201/010.1 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 14 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 27.05.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-N, 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 by Sh. Radhey Shyam Meena, Dy. Director, for DDA, 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-129 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 **"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-129 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Bachi Devi has been recorded before us on 27.05.2024 wherein she has stated that her parents, Awadh Chaudhary & Shanti Devi, are having one son, Kuldeep and four daughters, Sangita, Mamta, Madhuri & Bachi Devi. Both

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her parents, Awadh Chaudhary & Shanti Devi, are lving in Buxar, Bihar. All the children are married. Kuldeep is married with Baby and having three children and they are also living in Buxar, Bihar. Sangita is married with Vasisht and she is living in her matrimonial home in Wazirpur, Industrial Area. Mamta is married with Nirmal and she is living in her matrimonial home in Azadpur, Delhi. Madhuri is married with Sachidanand and having four children. Bachi Devi (Appellant/Claimant) is married with Jitender and having three children, Julie, Roshan & Rohan.

9. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. F-129 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 her sister Madhuri along with her husband Sachidanand and all the four children is living on the first floor of the Jhuggi No. F-129 and regarding that DDA has made allotment in favour of her sister Madhuri. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that she along with her husband Jitender & all the three children, Julie, Roshan & Rohan, is living on the ground floor of the Jhuggi No. F-129. The Appellant/Claimant has sought allotment from DDA against the ground floor of the said Jhuggi No. F-129 but her claim has been rejected by the Eligibility Determination Committee on the ground that she has claimed allotment from DDA against the upper floor in spite of the fact she has claimed allotment against the ground floor of the Jhuggi No. F-129 and further, she is 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. 14 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered document, 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 two video clips of Jhuggi No. F-129. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. F-129 on 18.03.2020 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

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much present and she 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 two video clips of Jhuggi No. F-129. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 27.05.2024 wherein the Appellant/Claimant has stated that the first video clip pertains to the ground floor of the Jhuggi No. F-129 in which from outside the Jhuggi is clearly seen to be a double storey pucca structure and further the Appellant/Claimant is seen and getting the survey conducted on the ground floor of the Jhuggi No. F-129 and her room & kitchen are seen and she is also heard stating that her sister is living on the first floor of the said Jhuggi No. F-129 and further, she is also seen holding a slate in her hand on which **"F-129 BACHI DEVI G+1"** is clearly seen to have been written. The second video clip pertains to the first floor of the said Jhuggi No. F-129 in which Sagar S/o Madhuri is seen and getting the survey conducted on the behalf of his mother Madhuri W/o Sachidanand and the room & kitchen on the first floor is seen and further, Sagar is also seen holding a slate in his hand on which **"F-129 MADHURI DEVI FF"** 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 clips, about the existence of the double storey Jhuggi No. F-129. 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-129 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is living the ground floor of the same and using it for residential purposes whereas her sister Madhuri W/o Sachidanand is living on the first floor of the said Jhuggi and using it for residential purposes.

15. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. F-129 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 ground floor of the said Jhuggi for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the ground floor of the said double storey Jhuggi.

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

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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 ground floor of the said double storey Jhuggi No. F-129 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-N, in support of her claim and prayed that DDA be directed to make allotment in her favour.

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

> **"Part-B**
> **<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."

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) - REQUIREMNET OF DOCUMENTS

20. 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 the 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 alternative allotment if he possesses any one of the documents out of the list of 12 documents.

21. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET 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 separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

24. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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

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01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

25. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact 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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by

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taking a conservative approach on the requirement of separate 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 this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

27. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

28. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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 in Mohammad Hakim's case (supra) 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 a

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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 is further held in Mohammad Hakim's case (supra) 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 separate ration 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 in Mohammad Hakim's case (supra) 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 but any one of the 12

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documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. 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 Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

32. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ 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.

33. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

34. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has

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been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

35. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

36. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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.

37. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

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GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

38. 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 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

39. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

40. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

41. It is pointed out that we have already held that the double storey Jhuggi No. F-129 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 ground floor of the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the ground floor of the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

42. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to

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01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the ground floor of the double storey Jhuggi No. F-129 as per the policy guidelines issued by DDA.

43. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), PAN Card (Annexure-D) and Internet report (Annexure-N) in support of her claim.

44. It is pointed out that the Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B). The first Voter ID Card (Annexure-A) is bearing number WHC 1759011 and it has been issued on the address of Jhuggi No. N-28/C-430 whereas she has been claiming allotment from DDA against the Jhuggi No. F-129 and accordingly, this Voter ID Card is not relevant as it does not pertain to the Jhuggi No. F-129 regarding which the Appellant/Claimant is seeking allotment from DDA. Furthermore, this Voter ID Card No. WHC 1759011 (Annexure-A) has been issued on 01.03.2012, much prior to the cutoff date 01.01.2015. However, the Appellant/Claimant has categorically stated that this Voter ID Card No. WHC 1759011 (Annexure-A) is a forged and fabricated document but she had got it issued after making payment of Rs. 2000/- to an agent and in that her name is mentioned to be Pramila and the address is also given to be Jhuggi No. N-28/C-430. Furthermore, the report (Annexure-N) downloaded from internet shows that this Voter ID Card No. WHC1759011 (Annexure-A) has not been found on the site of the Election Commission. This shows that this Voter ID Card No. WHC 1759011 (Annexure-A) is a forged and fabricated document and the same was got forged and fabricated by the Appellant/Claimant by making payment of Rs. 2000/- to an agent in order to grab allotment from DDA by hook or crook.

45. It is pointed out that the second Voter ID card (Annexure-B) of the Appellant/Claimant is bearing number WHC 2324432 and it has been issued on 03.04.2019, 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. Moreover, the fact cannot be lost sight that the Appellant/Claimant has forged and fabricated this Voter ID Card No. WHC 1759011 (Annexure-A) thereby showing that the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date 01.01.2015 having issued on the address of the Jhuggi No. F-129 Jailorwala Bagh regarding which the Appellant/Claimant has been claiming allotment from DDA.

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46. 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-129 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.

47. The Appellant/Claimant has tendered Voter ID Card No. WHC 61973047 (Annexure-E), Aadhar Card (Annexure-F) & PAN Card (Annexure-G) of her husband Jitender, the Electricity Bill (Annexure-H), Ration Card (Annexure-I), Aadhar Cards (Annexure-J to Annexure-L) of her children, Juli, Rohan & Roshan and the Passbook of SBI (Annexure-M) in support of her claim.

48. It is pointed out that the Voter ID Card No. WHC 61973047 (Annexure-E) of her husband Jitender has been issued on 04.04.2014, much prior to the cutoff date 01.01.2015 but the Appellant/Claimant has not tendered any Voter List to show that her husband Jitender had used his Voter ID Card to cast vote in any of the elections and more particularly in the years from 2012 to 2015. The Electricity Bill (Annexure-H) shows that her husband Jitender had taken electricity connection on 06.03.2013. The Ration Card No. 07708599339 (Annexure-I) has been issued in favour of the Appellant/Claimant and the name of her husband and two of the children is mentioned and it has been issued on 25.05.2022, much after the cutoff date 01.01.2015. The Passbook of SBI (Annexure-M) shows that her husband Jitender had opened the account on 09.04.2015, 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-129 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.

49. 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.

50. 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 having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. F-129 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-N, 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.

51. 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. 350-201/010.1 dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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52. 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: 211 of 2024

Date of Institution: 21.07.2023

Date of Order: 24.06.2024

Present: Appellant/ Claimant Mithun S/o Keshav

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-147, 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 Jailorwala 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-147 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. 350-201/09.1 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 211 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 03.06.2024. 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. 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-147 was found to exist but he had failed to submit required documents, i.e., Voter ID Card & a separate Ration 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 "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 & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of Jhuggi No. F-147 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Mithun has been recorded before us on 03.06.2024 wherein he has stated that his parents, Keshav & Punam, are having three sons;

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Mithun, Bittu & Rahul. Out of whom Bittu & Rahul are unmarried whereas Mithun (Appellant/Claimant) is married with Bindu but they are not having any issues.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. F-147, Jailorwala Bagh, Ashok Vihar and it comprises of one room on the ground floor and two rooms on the first floor and an iron ladder has been placed outside in the gali and used for going to the upper floor.

10. The Appellant/Claimant has stated that his parents, Keshav & Punam, along with their unmarried sons; Bittu & Rahul, are living on the ground floor of the Jhuggi No. F-147 and regarding that DDA has made allotment in favour of his mother Punam. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Bindu is living in both the rooms on the first floor of the Jhuggi No. F-147. The Appellant/Claimant has sought alternative allotment from DDA against the first floor of the said Jhuggi No. F-147 but his claim was rejected by Eligibility Determination Committee on the ground that he was found to be living on the upper floor in spite of the fact that he has claimed allotment against the first floor of the Jhuggi No. F-147 and further he is having all the requisite documents issued as per the policy guidelines issued by DDA and accordingly aggrieved by the same, he has filed the present Appeal No. 211 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 two video clips of Jhuggi No. F-147. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. F-147 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 clips are also attached in token thereof.

13. DDA has furnished survey record along with two video clips pertaining to Jhuggi No. F-147. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 03.06.2024 wherein he has stated that the first video clip pertains to

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the ground floor of the Jhuggi No. F-147 in which his mother Punam is seen and getting the survey conducted and further, her room & kitchen on the ground floor are seen and she is also seen holding a slate in her hand on which **"F-147 (N-207/121) PUNAM G.F."** is seen to have been written. The second video clip pertains to the first floor of the Jhuggi No. F-147 in which the Appellant/Claimant is seen and getting the survey conducted on the first floor and his room & kitchen are also seen and further, he is also seen holding a slate in his hand on which **"F-147 MITHUN FF"** 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 clips, about the existence of the double storey Jhuggi No. F-147. 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-147 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and his parents, Keshav & Punam, along with their unmarried sons; Bittu & Rahul, are living on the ground floor of the Jhuggi No. F-147 and regarding that DDA has made allotment in favour of his mother Punam whereas the Appellant/Claimant along with his wife is living on the first floor of the said Jhuggi No. F-147 and using the same for residential purposes.

15. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. F-147 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still living on the first floor of the said Jhuggi No. F-147 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi No. F-147.

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 & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of the said Jhuggi No. F-147 as per the policy guidelines issued by DDA.

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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-N, 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. 350-201/09.1 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 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.

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

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

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

20. 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

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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) - REQUIREMNET 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 the 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 alternative allotment if he possesses any one of the documents out of the list of 12 documents.

22. Thus the legal position which emerges out is that for claiming alternative allotment against the ground floor under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET 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 separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

25. Thus the legal position which emerges out is that for claiming alternative allotment against the first floor under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

26. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact 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

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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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate 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 this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

28. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of "Mohammad Hakim and Another versus Delhi Development Authority" in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

29. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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.

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30. It is further held in Mohammad Hakim's case (supra) 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 a 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 is further held in Mohammad Hakim's case (supra) 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 separate ration 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 in Mohammad Hakim's case (supra) 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

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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 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. 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 Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

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

34. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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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SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

35. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled "Delhi Development Authority versus Mohammad Hakim & Anr" before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that "Till further orders, there shall be stay of the impugned judgment".

36. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

37. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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.

38. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has

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been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

39. 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 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

40. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

41. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

42. It is pointed out that we have already held that the double storey Jhuggi No. F-147 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still living on the first floor of the said Jhuggi No. F-147 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said Jhuggi No. F-147. Accordingly, we have no hesitation in holding that the parameters for the first floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

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43. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment the first floor of the said Jhuggi No. F-147 as per the policy guidelines issued by DDA.

44. The Appellant/Claimant has tendered his Voter ID Card No. WHC 0341263 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-E), Letter No. F. No. AERO/AC-17/2023 dated 08.04.2024 (Annexure-J), Voter List of the year 2012 (Annexure-K), Voter List of the year 2013 (Annexure-L), Voter List of the year 2014 (Annexure-M) and Voter List of the year 2015 (Annexure-N) in support of his claim.

45. It is pointed out that the Appellant/Claimant has tendered his Voter ID Card bearing number WHC 0341263 (Annexure-A) and it has been issued on 16.10.2008, much prior to the cut off date of 01.01.2015. Furthermore, vide Letter dated 08.04.2024 (Annexure-J) issued by AERO, AC-17, Wazirpur, the Voter ID Card No. WHC 0341263 of the Appellant/Claimant has been verified to be a valid document and further, it is also mentioned that this Voter ID Card is reflected in the Voter List of the years from 2012 to 2015. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 1153 in the Voter List of the year 2012 (Annexure-K), at Sl. No. 1153 in the Voter List of the year 2013 (Annexure-L), at Sl. No. 1305 in the Voter List of the year 2014 (Annexure-M) and at Sl. No. 1500 in the Voter List of the year 2015 (Annexure-N).

46. It is also pointed out that in the Voter List of the year 2012 to 2015 (Annexure-K to Annexure-N), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be WHC 0341263 and further, in all the documents, Annexure-A, Annexure-B, Annexure-K to Annexure-N, the address of the Appellant/Claimant is mentioned to be Jhuggi No. F-147, Jailorwala Bagh, regarding which the Appellant/Claimant is claiming allotment from DDA.

47. Therefore, we have no hesitation in holding that the Appellant/Claimant was having a valid Voter ID Card on the cut off date of 01.01.2015 issued on the address of the Jhuggi No. F-147, 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.

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48. The Appellant/Claimant has also categorically stated that he is not having a separate Ration Card. The Appellant/Claimant has also stated that he had applied for issuance of a separate Ration Card in the year 2022 but till now, no Ration card has been issued in his favour. However, the fact remains that the Appellant/Claimant has applied for issuance of Ration Card much after the cutoff date of 01.01.2015. Furthermore, it is pointed out that the Appellant/Claimant has not tendered any Receipt/Acknowledgment issued by the concerned department to support his statement that he had applied for issuance of Ration Card in the year 2022.

49. As already pointed out above, the Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. F-147 regarding which he is claiming allotment from DDA. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. F-147 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the policy guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

50. The Appellant/Claimant has also tendered his Driving Licence (Annexure-C), R.C. of the Motorcycle (Annexure-D), Gas Connection Document (Annexure-F) and Electricity Bill (Annexure-G) as well as the Voter ID Card No. WHC 3616067 (Annexure-H) & Aadhar Card (Annexure-I) of his wife Bindu.

51. It is pointed out that the Driving License (Annexure-C) of the Appellant/Claimant has been issued on 13.02.2012 and the R.C. of the Motorcycle (Annexure-D) shows that it has been issued on 31.05.2012. The Gas Connection Document (Annexure-F) shows that the Appellant/Claimant had taken the gas connection on 10.02.2012. The Electricity Bill (Annexure-G) shows that the Appellant/Claimant had taken the electricity connection on 09.05.2023, much after the cut off date of 01.01.2015. Further, it is pointed out that the Voter ID Card No. WHC 3616067 (Annexure-H) of his wife Bindu has been issued on 08.01.2022, 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 years from 2012 to 2015 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

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having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor.

52. 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.

53. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of Jhuggi No. F-147, Jailorwala Bagh, regarding which he is claiming allotment from DDA, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. 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-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.

54. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines

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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. 350-201/09.1 dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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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: 172 of 2024

Date of Institution: 17.07.2023

Date of Order: 25.06.2024

Present: Appellant/ Claimant Fulsi Devi W/o Ravinder Nath Yadav

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-207/450/H-10, 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. N-207/450/H-10 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. 350-221/11.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 172 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 30.05.2024. 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 by Sh. Radhey Shyam Meena, Dy. Director, for DDA, 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-207/450/H-10 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-207/450/H-10 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Fulsi Devi has been recorded before us on 30.05.2024, wherein she has stated that she is married with Ravinder Nath Yadav and having one son, Sachin and one daughter Poonam. Sachin is unmarried whereas Poonam is married

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with Rajesh and she is living in her matrimonial home in district Balia, Uttar Pradesh.

9. The Appellant/Claimant has stated that she is having a double storey Jhuggi No. N-207/450/H-10 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 Manoj, who is the son of the real brother of her husband Ravinder Nath Yadav is living on the first floor of the Jhuggi No. 207/450/H-10 but he has not sought allotment from DDA against the first floor of the said Jhuggi No. 207/450/H-10.

11. The Appellant/Claimant has stated that she along with her husband Ravinder Nath Yadav and son, Sachin, is living on the ground floor of the Jhuggi No. 207/450/H-10. The Appellant/Claimant has sought allotment from DDA against the entire double storey Jhuggi No. N-207/450/H-10 but her claim has been rejected by the Eligibility Determination Committee on the ground that she has been found to have claimed allotment from DDA against the first floor and further her Voter ID Card could not be verified in spite of the fact that she has claimed allotment from DDA against the said double storey Jhuggi No. N-207/450/H-10 and further, she is 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. 172 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered document, 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 one video clip of Jhuggi No N-207/450/H-10. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. N-207/450/H-10 on 08.03.2020 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.

13. DDA has furnished the survey records along with one video clip of Jhuggi No. N-207/450/H-10. The video clip was played before the Appellant/Claimant when her statement was

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recorded before us on 30.05.2024 wherein the Appellant/Claimant has stated the video clip pertains to the ground floor of Jhuggi 207/450/H-10 in which the Appellant/Claimant is seen and getting the survey conducted and further, her room & kitchen on the ground floor are seen and further, she is also seen holding a slate in her hand on which **"H No. (N-207/450) FULSI DEVI (NOT IN THE LIST) 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. N-207/450/H-10. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. N-207/450/H-10 was 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. N-207/450/H-10 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 and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

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 double storey Jhuggi No. N-207/450/H-10 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 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

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to 01.01.2015, which 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. 350-221/11.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 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.

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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 allocation, while mixed residential-commercial use entitles dwellers to one unit.

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GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET 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 the 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 alternative allotment if he possesses any one of the documents out of the list of 12 documents.

22. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET 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 separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

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25. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

26. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact 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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate 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 this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

28. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

29. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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 in Mohammad Hakim's case (supra) 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

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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 a 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 is further held in Mohammad Hakim's case (supra) 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 separate ration 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 in Mohammad Hakim's case (supra) 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

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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 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. 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 Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

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

34. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

35. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development**

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Authority versus Mohammad Hakim & Anr" before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

36. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

37. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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.

38. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor

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and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

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39. 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 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

40. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

41. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

42. It is pointed out that we have already held that the double storey Jhuggi No. N-207/450/H-10 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 and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

43. Now we shall now appraise the material placed on file to determine the eligibility of the

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Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the double storey Jhuggi No. N-207/450/H-10 as per the policy guidelines issued by DDA.

44. The Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), PAN Card (Annexure-D) and Letter dated 01.05.2024 (Annexure-J) of AERO/AC-17, Wazirpur in support of her claim.

45. It is pointed out that the Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-B). The first Voter ID Card (Annexure-A) is bearing number JPF 0764183 and it has been issued on the address of Jhuggi No. N-207/450, Jailorwala Bagh on on 20.07.2003, much prior to the cutoff date 01.01.2014. However, it is pointed out that in the Letter dated 01.05.2024 (Annexure-J) of AERO/AC-17, Wazirpur, it is mentioned that Voter ID Card No. JPF 0764183 (Annexure-A) could not be verified as per the records of the Election Commission and further, her name also does not appear in the Voter List of the years from 2012 to 2015. This shows that Voter ID Card No. JPF 0764183 (Annexure-A) is a forged and fabricated document.

46. It is pointed out that the Second Voter ID Card (Annexure-B) of the Appellant/Claimant is bearing number WHC 3664737 and it has been issued on the address of Jhuggi No. H-10, Jailorwala Bagh on on 25.08.2022, much after the cutoff date 01.01.2015 and accordingly the question of her name appearing in the Voter List of the years from 2012 to 2015 does not arise. The Appellant/Claimant has tendered Aadhar Card No. 8680 5795 7249 (Annexure-C) and it has been issued on the address of Jhuggi No. H-10, Jailorwala Bagh on 08.08.2011 but the fact remains that the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date 01.01.2015 and further, her name also does not appear in the Voter List of the years from 2012 to 2015. 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-207/450/H-10 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

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DDA.

47. The Appellant/Claimant has tendered the Voter ID Card No. JPF 0764191 (Annexure-E) & PAN Card (Annexure-F) of her husband Ravinder Nath Yadav, the Electricity Bill (Annexure-G), Ration Card (Annexure-H), the Passbook of PNB (Annexure-I) and the Passbook of PNB (Annexure-K) in support of her claim.

48. It is pointed out that the Voter ID Card No. JPF 0764191 (Annexure-E) of her husband Ravinder Nath Yadav has been issued on 20.07.2003, much prior to the cutoff date 01.01.2015. However, the Appellant/Claimant has not tendered any Voter List to show that her husband had used his Voter ID Card No. JPF 0764191 (Annexure-E) to cast vote in any of the elections and more particularly in the years from 2012 to 2015. The Electricity Bill (Annexure-G) shows that her husband Ravinder Nath Yadav had taken electricity connection on 07.03.2009. Furthermore, the Ration Card No. 077002571141 (Annexure-H) has been issued in favour of the Appellant/Claimant and the name of her husband and both the children are mentioned but the date of issuance is not mentioned. Furthermore, the Passbook of PNB (Annexure-I) shows that her husband Ravinder Nath Yadav had opened the account on 17.05.1993 whereas the Passbook of PNB (Annexure-K) shows that the account was opened jointly by the Appellant/Claimant and her husband on 09.05.2007. However, it is pointed out that all the above documents are not relevant to determine the eligibility because as per our discussion above, the Appellant/Claimant has forged Voter ID Card No. JPF 0764183 (Annexure-A) in order to grab allotment from DDA and further, she has also not been found to be having a valid Voter ID Card on the cutoff date 01.01.2015 issued on the address of Jhuggi No. N-207/450/H-10 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.

49. 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.

50. 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 having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. N-207/450/H-10 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-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.

51. 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. 350-221/11.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

52. 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

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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: 01 of 2024

Date of Institution: 26.04.2023

Date of Order: 25.06.2024

Present: Appellant/ Claimant Rajesh S/o Ram Ratan

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-207/848, 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. N-207/848 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. 350-20/0052.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 01 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 10.05.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-S, 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-207/848 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. N-207/848 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Rajesh has been recorded before us on 10.05.2024 wherein he has stated that his grandfather Paltu was having two sons; Ram Nath & Ram Rattan. Ram Nath is married with Rani Devi and having two daughters; Kamla & Vimla. Ram

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Rattan is married with Krishna and having three children; Rajesh, Brijesh & Manju. Ram Rattan had expired in the year 2007 whereas Krishna had expired in the year 2022. Brijesh is unmarried. Manju is married with Kapil and she is living in her matrimonial home in Ahmedabad. Rajesh (Appellant/Claimant) is married with Kanchan and having three children; Ankur, Ansh & Shivanshi.

9. The Appellant/Claimant has stated that his family is having two adjoining Jhuggis in Jailorwala Bagh bearing Jhuggis No. H-52/53 (N-207/106) & Jhuggi No. H-54 (N-207/848) and both the Jhuggis are double storey structures.

Double storey Jhuggi No. H-52/53 (N-207/106)

10. The Appellant/Claimant has stated that his uncle Ram Nath along with his family is living in the double storey Jhuggi No. H-52/53 (N-207/106) and it is a double storey structure and comprises of one room on each floor and an iron ladder is constructed on the ground floor and it is used for going to the upper floor and regarding that DDA has made allotment in favour of his uncle Ram Nath. These facts are not disputed by DDA.

Double storey Jhuggi No. H-54 (N-207/848)

11. The Appellant/Claimant has stated that his family is having the adjoining Jhuggi to that of his uncle Ram Nath and it is bearing Jhuggi No. H -54 (N-207/848). This also is a double storey structure 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 to the upper floor. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi No. H-54 (N-207/848) 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 been found to be claiming allotment against the upper floor in spite of the fact that he has claimed allotment from DDA against the double storey Jhuggi No. H-54 (N-207/848) and further he is having all the requisite documents as per policy guidelines and accordingly, aggrieved by the same, he has filed the present Appeal No. 01 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-S, 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. N-207/848. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. N-

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207/848 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 10.05.2024 wherein he has stated that the first video clip pertains to the Jhuggi No. H-52/53 (N-207/106) in which the said Jhuggi is clearly seen to be a double storey pucca structure from outside and further an iron ladder placed outside and used for going to the upper floor is seen and further, his uncle Ram Nath S/o Paltu 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-52/53 (N-207/106 RAM NATH G+1"** is clearly seen to have been written. The second video clip pertains to the Jhuggi No. H-54 (N-207/848) in which the said Jhuggi is clearly seen to be a double storey structure from outside and further the Appellant/Claimant Rajesh is seen and getting the 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 **"H-54 (N-207/848) RAJESH G+1"** is clearly seen to have been written. Further, he is also heard thereby making a statement that his younger brother lives on the first floor.

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 clips, about the existence of the double storey Jhuggi No. N-207/848. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. N-207/848 was 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. N-207/848 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

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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. N-207/848 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-S, 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 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. 350-20/0052.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 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in

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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.
- 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."

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) - REQUIREMNET 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 the 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 alternative allotment if he possesses any one of the documents out of the list of 12 documents.

22. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against

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the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET 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 separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

25. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

26. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor

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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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact 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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate 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 this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

28. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

29. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the

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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 in Mohammad Hakim's case (supra) 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 a 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 is further held in Mohammad Hakim's case (supra) 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 separate ration 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

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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 in Mohammad Hakim's case (supra) 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 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. 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 Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

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

34. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

35. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

36. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

37. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022)

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to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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.

38. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

39. 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 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

40. 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

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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 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

41. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

42. It is pointed out that we have already held that the double storey Jhuggi No. N-207/848 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

43. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi No. N-207/848 as per the policy guidelines issued by DDA.

44. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), PAN Card (Annexure-D), Letter No. F. No./AERO/AC-17/2024/162 dated 01.05.2024 (Annexure-M) issued by AERO, AC-17, Wazirpur, Voter List of the year 2012 (Annexure-N), Voter List of the year 2013 (Annexure-O), Voter List of the year 2014 (Annexure-P) and Voter List of the year 2015 (Annexure-Q) in support of his claim.

45. It is pointed out that the Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B). The first Voter ID Card (Annexure-A) bearing number JPF 0732156 and it has been issued on 20.08.2002, much prior to the cutoff date of 01.01.2015. Furthermore, his name also appears at Sl. No. 257 in the Voter List of the year 2012 (Annexure-N), at Sl. No. 257 in the Voter List of the year 2013 (Annexure-O), at Sl. No. 349 in the Voter List of the

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year 2014 & at Sl. No. 380 in the Voter List of the year 2015 (Annexure-Q). The Appellant/Claimant has also tendered the Letter No. F. No./AERO/AC-17/2024/162 dated 01.05.2024 issued by AERO, AC-17, Wazirpur (Annexure-M) thereby showing that the Voter ID Card (Annexure-A) is a valid document and further, his name is also reflected in the Voter Lists of the year 2012 to 2015. However, it is pointed out that in the Voter Lists attached with this Letter (Annexure-M), the Voter ID Card No. of the Appellant/Claimant is mentioned to be JPF 0732156 whereas his address is mentioned to be Jhuggi No. H-53 and not the Jhuggi No. H-54(N-207/848), regarding which he is claiming allotment from DDA. It is pointed out that the Voter ID Card (Annexure-B) as well as all the Voter Lists (Annexure-N to Annexure-Q) of the Appellant/Claimant has been issued on the address of the Jhuggi No. H-53 of his uncle Ram Nath S/o Paltu and accordingly the same is not relevant to determine the eligibility of the Appellant/Claimant as it does not pertain to Jhuggi No. N-207/848 regarding which he has been claiming alternative allotment from DDA.

46. The second Voter ID Card (Annexure-B) of the Appellant/Claimant is bearing No. WHC 2221612 and it has been issued on the address of the Jhuggi No. N-207/848 regarding which the Appellant/Claimant is claiming allotment from DDA but it has been issued on 14.10.2016, much after the cutoff date of 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 having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. H-54(N-207/848) 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.

47. The Appellant/Claimant has also tendered the Voter ID Card No. WHC 3283462 (Annexure-E) & Aadhar Card (Annexure-F) of his wife Kanchan, Aadhar Card (Annexure-G) of his son Ankur, Aadhar Card (Annexure-H) of his son Ansh (Annexure-I), Passbook of Bank of Baroda (Annexure-I), three Ration Cards (Annexure-J to Annexure-L), Electricity Bill (Annexure-R) and application (Annexure-S) made to DDA for review in support of his claim.

48. It is pointed out that the Appellant/Claimant has tendered the Voter ID Card No. WHC

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3283462 (Annexure-E) of his wife Kanchan, which has been issued on 20.10.2019, 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 2012 to 2015 does not arise. The material placed on file shows that neither the Appellant/Claimant nor his wife Kanchan was having a valid Voter ID Card on on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. H-54(N-207/848), 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. The Passbook of Bank of Baroda (Annexure-I) shows that the Appellant/Claimant has opened the account on 18.10.2012. Furthermore, the Appellant/Claimant has tendered three Ration Cards (Annexure-J to Annexure-L). The first Ration Card (Annexure-J) is bearing No. BPL 53040283 and it has been issued in favour of his father Ram Rattan on 07.08.02002 but the details of the family members is not mentioned therein. The second Ration Card (Annexure-K) is bearing No. BPL 53040152 and it has been issued on 16.03.2010 in favour of the Appellant/Claimant. The third Ration Card (Annexure-L) is bearing No. 077002555789 and it has been issued in favour of his wife Kanchan and the name of the Appellant/Claimant is mentioned therein but the date of issuance is not mentioned therein. The Electricity Bill (Annexure-R) it shows that the Appellant/Claimant has taken the electricity connection on 28.09.2011. The application (Annexure-S) made to DDA for review is also not relevant as DDA has considered all the documents on merits. 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-207/848, 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.

49. 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

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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.

50. 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. N-207/848, 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-S, 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.

51. 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. 350-20/0052.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

52. Copy of this order be supplied to both the parties as per rules within three days from the

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

(Ranbir Singh)	(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: 131 of 2024

Date of Institution: 14.07.2023

Date of Order: 25.06.2024

Present: Appellant/ Claimant Chinta Kumari W/o Rakesh

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-92, 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 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-92 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. 350-109/6.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 131 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 15.05.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-F, 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 by Sh. Radhey Shyam Meena, Dy. Director, for DDA, 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 storey Jhuggi bearing No. F-92 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-92 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Chinta Kumari has been recorded before us on 15.05.2024 wherein she has stated that her in-laws, Lal Bahadur & Chinta Devi, are having four sons; Manoj, Rajesh, Rakesh & Rohit and two daughters; Puja & Arti. All the children

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except Rohit are married. Puja is married with Sunil and she is living in her matrimonial home in Wazirpur, Delhi. Arti is married with Rohit and she is living in her matrimonial home in Haiderpur, Delhi. Manoj is married with Sitara and having three children. Rajesh is married with Anshu and having two children. Rakesh is married with Chinta (Appellant/Claimant) and having two children; Hridyanshi & Vartika.

9. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. F-92 and it comprises of two rooms with interconnected gates on the ground floor and three rooms 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.

10. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that both the rooms on the ground floor are interconnected in such a way that in order to enter the rear room, one has to pass through the outer room and accordingly both the rooms constitute one dwelling unit.

11. The Appellant/Claimant has stated that Manoj along with his wife Sitara as well as his parents, Lal Bahadur & Chinta Devi, as well as unmarried brother Rohit, is living on the first floor of the Jhuggi No. F-92 and regarding that, DDA has made allotment in favour of Sitara W/o Manoj. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that Rajesh along with his wife Anshu & children is living in the outer room on the ground floor of the Jhuggi No. F-92 and regarding that, DDA has made allotment in favour of Rajesh.

13. The Appellant/Claimant has stated that she along with her husband Rakesh and both the daughters; Hridyanshi & Vartika, is living in the rear second room on the ground floor of the Jhuggi No. F-92 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 ID Card could not be verified and further she has claimed allotment against the upper floor in spite of the fact that she is claiming allotment from DDA against the rear room on the ground floor of the Jhuggi No. F-92 and further 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. 131 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-

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F, in support of her claim and prayed that DDA be directed to make allotment in her favour.

14. DDA has furnished survey records along with two video clips of Jhuggi No. F-92. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. F-92 on 19.03.2020 on the ground floor of the said Jhuggi and her photograph & 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 videography the Appellant/Claimant was not present and she had not got the videography conducted and the video clip is also not available.

15. DDA has furnished survey records along with two video clips pertaining to the Jhuggi No. F-92. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 15.05.2024 wherein she has stated that the first video clip pertains to the ground floor of the Jhuggi No. F-92 in which from outside, the said Jhuggi is clearly seen to be a double storey structure and a pucca staircase is seen constructed outside in the gali and used for going to the upper floor and further, Rajesh S/o Lal Bahadur is seen and getting the survey conducted and two interconnected rooms on the ground floor are seen and further, Rajesh is also seen holding a slate in his hand on which **"F-92 RAJESH G+1"** is clearly seen to have been written. The second video clip pertains to the first floor of the Jhuggi No. F-92 in which Sitara W/o Manoj is seen and a pucca staircase going from ground floor to the first floor is seen and further the room & kitchen of Sitara on the first floor is seen and she is also seen holding a slate in her hand on which **"F-92 SITARA F.F"** is clearly seen to have been written. However, the other two rooms on the first floor as alleged by the Appellant/Claimant are not seen.

16. Here, it is pertinent to point out that the admission of the Appellant/Claimant is a clincher piece of evidence as she has categorically stated that the Jhuggi bearing No. F-92 comprises of two inter-connected rooms on the ground floor and accordingly both the rooms constitute one dwelling unit because the rear room on the ground floor is not having independent access from the gali but in order to reach to the rear room one has to pass from inside the front room. These facts are duly corroborated by the video clips in which two inter-connected rooms on the ground floor of Jhuggi No. F-92 is seen. Therefore, both the rooms on the ground floor are part of the same dwelling unit and regarding that DDA has made allotment in favour of Rajesh S/o Lal Bahadur and accordingly two allotments are not

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permissible against one dwelling unit as per the guidelines issued by DDA but the Appellant/Claimant in collusion with her family members has tried to get maximum allotments from DDA by hook or crook and further this is the case of double allotment against one Jhuggi because the Appellant/ Claimant and her brother-in-law, Rajesh S/o Lal Bahadur, had sought allotment against the same dwelling unit. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the policy guidelines issued by DDA.

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 Jhuggi No. F-92 as per the policy guidelines issued by DDA.

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

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 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.

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

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

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

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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) - REQUIREMNET 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 the 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 alternative allotment if he possesses any one of the documents out of the list of 12 documents.

22. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET 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

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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."

24. Thus Clause 1 (10) of Part–B of the DDA policy makes the requirement of having a separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

25. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

26. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether

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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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate 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 this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

28. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

29. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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

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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 in Mohammad Hakim's case (supra) 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 a 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 is further held in Mohammad Hakim's case (supra) 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 separate ration 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

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Improvement Board and others" 2017 SCC OnLine Del 9715.

32. It is further held in Mohammad Hakim's case (supra) 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 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. 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 Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

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

34. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh,

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Ashok Vihar with effect from 01.03.2024 thereby holding 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.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

35. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

36. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

37. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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

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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.

38. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

39. 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 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

40. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

41. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

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42. It is pointed out that we have already held that the double storey Jhuggi No. F-92 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 living in the rear room on the ground floor of the said Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

43. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the Jhuggi No. F-92 as per the policy guidelines issued by DDA.

44. The Appellant/Claimant has categorically admitted that she has applied for issuance of Voter ID Card but till now no Voter ID Card has been issued in her favour by the Election Commission. This shows 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. F-92, regarding which she is claiming allotment from DDA 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-92 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.

45. The Appellant/Claimant has tendered her Aadhar Card (Annexure-A), Voter ID Card (Annexure-B), Aadhar Card (Annexure-C) & PAN Card (Annexure-D) of her husband Rakesh, Electricity Bill (Annexure-E) & Passbook of Indusind Bank (Annexure-F) in support of her claim.

46. It is pointed out that the Appellant/Claimant has tendered her Aadhar Card (Annexure-A) but as already pointed out, 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-92, regarding which she is claiming allotment from DDA. Furthermore, the Voter ID Card bearing No. JPF 0708479

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(Annexure-B) of her husband Rakesh has been issued on 29.06.2002, much prior to the cutoff date of 01.01.2015 but it is pointed out that the Appellant/Claimant has not tendered any Voter List to show that her husband had used this Voter ID Card to cast vote in any of the elections and more particularly in the years from 2012 to 2015. The Electricity Bill (Annexure-E) shows that the electricity connection has been taken by her brother-in-law, Rajesh S/o Lal Bahadur, on 19.05.2009 thereby showing that the Appellant/Claimant was not having a separate electricity connection on the address of the Jhuggi No. F-92, regarding which the Appellant/Claimant has been claiming allotment from DDA. The Passbook of Indusind Bank (Annexure-F) shows that the Appellant/Claimant has opened the account but the date of opening the account is not mentioned 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 Jhuggi No. F-92 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.

47. 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.

48. 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 having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. F-92 regarding which she has

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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 further the rear room on the ground floor of the Jhuggi No. F-92 regarding which the Appellant/ Claimant is claiming allotment from DDA is found to be part & parcel of the front room on the ground floor of the said Jhuggi, which is dwelling unit of her brother-in-law Rajesh S/o Lal Bahadur and regarding which DDA has already made allotment in favour of Rajesh S/o Lal Bahadur and accordingly two allotments are not permissible against one dwelling unit as per the policy guidelines issued by DDA and accordingly the Appellant/ Claimant does not fulfill the eligibility criteria as per the policy guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the 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-F, 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.

49. 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. 350-109/6.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

50. 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

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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: 55 of 2024

Date of Institution: 12.07.2023

Date of Order: 26.06.2024

Present: Appellant/ Claimant Krishna S/o Prabhash 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 he is living in Jhuggi bearing No. F-63, 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-63 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. 350-15/59.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 55 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 30.05.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as by Sh. Radhey Shyam Meena, Dy. Director, for DDA, 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-63 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-63 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Krishna has been recorded before us on 30.05.2024 wherein he has stated that his parents, Prabhash & Kamla, are having four sons;

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Nitesh, Munna, Chandan & Krishna (Appellant/Claimant) and one daughter; Jyoti. All the children including Krishna (Appellant/Claimant) are unmarried.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. F-63 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 he along with his parents, Prabhash & Kamla, and other siblings is living in the double storey Jhuggi No. F-63, Jailorwala Bagh, Ashok Vihar. The Appellant/Claimant has sought allotment from DDA regarding that said double storey Jhuggi No. F-63 but his claim has been rejected by Eligibility Determination Committee on the grounds that he was found to be claiming allotment against the upper floor and further his Voter ID Could not be verified in spite of the fact that he has claimed alternative allotment against the double storey Jhuggi No. F-63 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. 55 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, 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-63. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. F-63on 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 record along with one video clip. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 30.05.2024 wherein he has stated that the video clip pertains to the Jhuggi No. F-63 in which the Jhuggi No. F-63 is clearly seen from outside to be a double storey structure and an iron ladder placed in the gali and used for going to the upper floor is also seen and further, Appellant/Claimant Krishna is seen and getting the survey conducted and further, his room & kitchen are seen and further, he is also seen holding a slate in his hand on which **"F-63 KRISHNA G+1"** is clearly

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seen to have been written and further, the Appellant/Claimant is also heard thereby making a statement that the entire family is living in the double storey structure.

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-63. 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-63 was 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. F-63 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

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 he is entitled to claim allotment against the double storey Jhuggi No. F-63 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 his claim and prayed that DDA be directed to make allotment in his favour.

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

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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 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. 350-15/59.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**
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.

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

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

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

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) - REQUIREMNET OF DOCUMENTS

20. 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 the 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 alternative allotment if he possesses any one of the documents out of the list of 12 documents.

21. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET 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 separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

24. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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

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01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

25. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact 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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor

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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 this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

27. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

28. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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 in Mohammad Hakim's case (supra) 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 a 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

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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 is further held in Mohammad Hakim's case (supra) 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 separate ration 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 in Mohammad Hakim's case (supra) 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 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. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made

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it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

32. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ 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.

33. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

34. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

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35. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

36. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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.

37. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

38. 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

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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 and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

39. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

40. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

41. It is pointed out that we have already held that the double storey Jhuggi No. F-63 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

42. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi No. F-63 as per the policy guidelines issued by DDA.

43. The Appellant/Claimant has tendered his Voter ID Card (Annexure-A), Aadhar Card (Annexure-B) & PAN Card (Annexure-C) in support of his claim.

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44. It is pointed out that the Appellant/Claimant has tendered his Voter ID Card (Annexure-A) bearing No. WHC 3724903 and it has been issued on 04.05.2024, much after the cutoff date of 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.

45. The Appellant/Claimant has also tendered the Aadhar Card No. 3872 1927 8761 (Annexure-B) & PAN Card (Annexure-C). It is pointed out that in the Voter ID Card (Annexure-A), Aadhar Card (Annexure-B) & PAN Card (Annexure-C) his date of birth is recorded to be 01.01.2000. The Appellant/Claimant has also categorically admitted that his date of birth of 01.01.2000 has been correctly recorded in these documents (Annexure-A to Annexure-C) and this accordingly shows that the Appellant/Claimant was minor on the cutoff date of 01.01.2015 and accordingly, the question of issuance of a Voter ID Card on the cutoff date of 01.01.2015 in his favour does not arise. Furthermore, the Appellant/Claimant has nowhere stated that he was having any independent source of income on the cutoff date of 01.01.2015 and accordingly, the dweller, who is minor and not having an independent source of income, cannot live separately & independently and accordingly this creates dent in the story put forward by the Appellant/Claimant. Therefore, we have no hesitation in holding that the Appellant/Claimant was minor on the cutoff date of 01.01.2015 and further he was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. F-63 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.

46. The Appellant/Claimant has tendered two Voter ID Cards (Annexure-D & Annexure-E), PAN Card (Annexure-F) & Aadhar Card (Annexure-J) of his father Prabhash, the Voter ID Card No. WHC 1491257 (Annexure-G) of his mother Kamla, Passbook of Indian Overseas Bank (Annexure-I), Electricity Bill (Annexure-K), Ration Card (Annexure-L) and Voter List of the year 2012 (Annexure-M) in support of his claim.

47. It is pointed out that the Appellant/Claimant has tendered two Voter ID Cards (Annexure-D & Annexure-E) of his father Prabhash. The first Voter ID Card (Annexure-D) is bearing No. WHC 2346118 and it has been issued on 11.04.2019, much after the cutoff date of 01.01.2015. The second Voter ID Card (Annexure-E) is bearing No. WHC 3660458 and it has

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been issued on 24.09.2023, much after the cutoff date of 01.01.2015. Both the Voter ID Cards (Annexure-D & Annexure-E) have been issued on the address of the Jhuggi No. F-63, regarding which the Appellant/Claimant is claiming allotment from DDA but the Appellant/Claimant has failed to explain the reasons for having two Voter ID Cards (Annexure-D & Annexure-E) got issued by his father and furthermore, the fact remains that both the Voter ID Cards (Annexure-D & Annexure-E) by his father Parbhash have been got issued much after the cutoff date of 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.

It is pointed out that the Voter ID Card No. WHC 1491257 (Annexure-G) of his mother Kamla has been issued on 20.04.2009, much prior to the cutoff date of 01.01.2015 and further, the name of his mother Kamla appears at Sl. No. 961 in the Voter List of the year 2012 (Annexure-M). However, no other Voter List has been placed on file to show that his mother Kamla had used her Voter ID Card to cast vote in any of the elections after 2012 and more specifically from 2013 to 2015. The Passbook of Indian Overseas Bank (Annexure-I) shows that his mother Kamla had opened the account on 03.11.2011 and in that document also the address is mentioned to be Jhuggi NO. F-63, Jailorwala Bagh. The Appellant/Claimant has also tendered the Electricity Bill (Annexure-K) which shows that his father Prabhash had taken the electricity connection on 05.03.2009 on the address of the Jhuggi No. F-63.

It is pointed out that the Appellant/Claimant has also tendered the Ration card (Annexure-L) bearing No. 0770051312002 and it has been issued on the address of the Jhuggi No. F-63 on 22.07.2015 in favour of his cousin Jitender and the name of the Appellant/Claimant as well as his parents and other family members have been mentioned but the name of father of Jitender has been conspicuously missing. It is pertinent to point out that this Ration Card (Annexure-L) has been issued in favour of Jitender Kumar but the name of his father or any of his other family members have been conspicuously missing but instead, the name of the present Appellant/Claimant as well as that of his family members have been mentioned. This documents accordingly shows that the Jhuggi must have been belonging to his cousin Jitender and that is why he has got the Ration Card (Annexure-L) issued in his favour and he might not be having all the requisite documents and that is why the present Appellant/Claimant has sought allotment from DDA by getting the Voter ID card (Annexure-A) issued on 04.05.2024 and furthermore, his father Prabhash had also got two Voter ID

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Cards (Annexure-D & Annexure-E) issued much after the cutoff date of 01.01.2015. This shows that Appellant/Claimant as well as his family members had got the documents issued on the address of the Jhuggi No. F-63 in order 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 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. F-63 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.

48. 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.

49. 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 minor on the cutoff date of 01.01.2015 and further he was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. F-63 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 she very well knew that she did not possess requisite documents and does not fulfill the eligibility

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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 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.

50. 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. 350-15/59.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

51. 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: 183 of 2024

Date of Institution: 18.07.2023

Date of Order: 26.06.2024

Present: Appellant/ Claimant Seema W/o Shiv Shankar

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-46 (CN-680), 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-46 (CN-680) 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

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alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-18/002.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 183 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 22.05.2024. 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 by Sh. Radhey Shyam Meena, Dy. Director, for DDA, 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-46 (CN-680) 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-46 (CN-680) as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Seema has been recorded before us on 22.05.2024 wherein she has stated that her in-laws, Harikesh Yadav & Janaki, are having

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one son Shiv Shankar and two daughters; Rekha & Bindu. All the children are married. Bindu is married with Brijesh and she is living in her matrimonial home in Gurugram, Haryana. Rekha is married with Babban and she is living in her matrimonial home in Pratapgarh, Uttar Pradesh. Shiv Shankar is married with Seema (Appellant/Claimant) and having two children; Ayush & Akarsh.

9. The Appellant/Claimant has stated that her family is having two back-to-back adjoining Jhuggis having their main gates opening in two different galis. Both the Jhuggis are double storey structures and 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. One Jhuggis is bearing Jhuggi No. A-46 whereas another Jhuggi is bearing Jhuggi No. A-46 (CN-680).

Jhuggi No. A-46

10. The Appellant/Claimant has stated that her in-laws, Harikesh Yadav & Janaki, are living in the double storey Jhuggi No. A-46 and regarding that DDA has made allotment in favour of her mother-in-law Janaki. These facts are not disputed by DDA.

Jhuggi No. A-46 (CN-680)

11. The Appellant/Claimant has stated that she along with her husband Shiv Shankar and both the children; Ayush & Akarsh, is living in the double storey Jhuggi No. A-46 (CN-680) 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 she was found to be claiming allotment against upper floor and further her Voter Card could not be verified in spite of the fact that she is claiming allotment from DDA against the double storey Jhuggi No. A-46 (CN-680) and further she is 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. 183 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-H, 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 one video clip of Jhuggi No. A-46 (CN-680). As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. A-46 (CN-680) on 17.03.2020 on the ground floor of the said Jhuggi and her photographs is also attached in token thereof and further the documents tendered in support of the claim

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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 two video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 22.05.2024 wherein she has stated that the first video clip pertains to the Jhuggi No. A-46 of her in-laws, Harikesh Yadav & Janaki, in which from outside, the Jhuggi is clearly seen to be a pucca double storey structure and further, her husband Shiv Shankar is seen and getting the survey conducted on behalf of his mother Janaki and their room & kitchen are also seen and further, he is also seen holding a slate in his hand on which **"A-46 Janaki G.F"** is seen to have been written. The second video clip pertains to the Jhuggi No. A-46 (CN-680) in which the Appellant/Claimant is seen and her Jhuggi is clearly seen to be a pucca structure but the construction on the first floor is not seen and further, her room & kitchen are seen on the ground floor and she is seen holding a slate in her hand on which **"A-47 SEEMA G+1"** is seen to have been written and further, she is also heard stating that Hari Ram is living on the first floor of the said Jhuggi and further, the address on her Aadhar Card is mentioned to be Jhuggi No. A-46 whereas the address on the Aadhar Card of her husband Shiv Shankar is Jhuggi No. A-47.

14. It is very surprising that the Appellant/Claimant is getting the survey conducted on the Jhuggi No. A-46 (CN-680) but in the video clip, she is seen holding a slate in her hand on which the number of the Jhuggi is mentioned to be A-47 as on the slate **"A-47 SEEMA G+1"** is seen to have been written. Furthermore, the Appellant/Claimant has also stated that the address on her Aadhar Card is mentioned to be Jhuggi No. A-46 whereas the address on the Aadhar Card of her husband Shiv Shankar is Jhuggi No. A-47. On this aspect, it is pointed out that there is no Jhuggi bearing number A-47 because the Jhuggi of her in-laws, Harikesh Yadav & Janaki, is bearing Jhuggi No. A-46 whereas the Appellant/Claimant has sought allotment against the Jhuggi No. A-46 (CN-680). Accordingly, the Aadhar Card of her husband Shiv Shankar having been issued on the address of the Jhuggi No. A-47 and further, the Appellant/Claimant having got the survey conducted by showing it to be Jhuggi No. A-47 creates doubt & suspicion, especially when as per the survey records placed on file by DDA; the Appellant/Claimant has been claiming allotment from DDA against the

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Jhuggi No. A-46 (CN-680). But the fact remains that DDA has not disputed the existence of Jhuggi No. A-46 (CN-680).

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 double storey Jhuggi No. A-46 (CN-680). 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-46 (CN-680) was 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.

16. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-46 (CN-680) 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 and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

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 double storey Jhuggi No. A-46 (CN-680) as per the policy guidelines issued by DDA.

18. 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.

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

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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. 350-18/002.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**
> **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

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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."

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.

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GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET 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 the 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 alternative allotment if he possesses any one of the documents out of the list of 12 documents.

23. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET 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 separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

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26. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

27. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact 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

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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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate 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 this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

29. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

30. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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 in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and

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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 a 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 is further held in Mohammad Hakim's case (supra) 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 separate ration 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 in Mohammad Hakim's case (supra) 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

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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 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. 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 Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

34. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ 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.

35. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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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SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

36. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

37. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

38. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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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39. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

40. 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 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

41. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

42. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

43. It is pointed out that we have already held that the double storey Jhuggi No. A-46 (CN-680) 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 and further the Appellant/Claimant has claimed alternative allotment from DDA

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against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

44. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the double storey Jhuggi No. A-46 (CN-680) as per the policy guidelines issued by DDA.

45. The Appellant/Claimant has tendered her Aadhar Card bearing No. 2427 0575 1007 (Annexure-A) and PAN Card (Annexure-B) in support of her claim.

46. It is pointed out that the Appellant/Claimant has tendered her Aadhar Card bearing No. 2427 0575 1007 (Annexure-A) but the date of issuance is not mentioned on the Aadhar Card (Annexure-A). It is also pertinent to point out that the Appellant/Claimant has stated that she is not having a Voter ID Card issued on the address of the Jhuggi No. A-46 (CN-680), regarding which she is claiming allotment from DDA and she has also specifically admitted that till now she has even not applied for issuance of a Voter ID Card in her favour. The material placed on file accordingly shows that the Appellant/Claimant is not having a valid Voter ID Card issued on the cutoff date of 01.01.2015 on the address of the Jhuggi No. A-46 (CN-680), regarding which she is claiming allotment from DDA 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-46 (CN-680) 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.

47. The Appellant/Claimant has also tendered the Voter ID Card No. WHC 2197259 (Annexure-

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C), Aadhar Cards (Annexure-D & Annexure-H) & PAN Card (Annexure-E) of her husband Shiv Shankar, Electricity Bill (Annexure-F) & Ration Card (Annexure-G).

48. It is pointed out that the Appellant/Claimant has tendered the Voter ID Card No. WHC 2197259 (Annexure-C) of her husband Shiv Shankar and it has been issued on 15.03.2016, 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 2012 to 2015 does not arise. It is also pointed out that neither the Appellant/Claimant nor her husband Shiv Shankar was having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. A-46 (CN-680), regarding which she is claiming allotment from DDA and further their 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 is also pointed out that the Appellant/Claimant has tendered two Aadhar Card (Annexure-D & Annexure-H) of her husband Shiv Shankar and both of them are bearing the same number, i.e. 2737 5567 4403. The old Aadhar Card (Annexure-H) has been issued on 16.01.2013 on the address of the Jhuggi No. A-47 of his parents and later on the address was changed from the Jhuggi No. A-47 to the Jhuggi No. A-46 and another Aadhar Card (Annexure-D) was got issued on 23.01.2020. It is pointed out that the Appellant/Claimant has not sought allotment from DDA against the Jhuggi No. A-47 and accordingly, the Aadhar Card (Annexure-H) is not relevant material as it has not been issued on the address of the Jhuggi No. A-46 (CN-680), regarding which the Appellant/Claimant is claiming allotment from DDA. The entries of Aadhar Card was rectified and the new Aadhar Card (Annexure-D) was got issued on 23.01.2020 on the address of the Jhuggi No. A-46 but it has been got issued much after the cutoff date of 01.01.2015 with an intention to create documents in order to grab allotment from DDA.

It is pointed out that the Electricity Bill (Annexure-F) shows that the electricity connection has been taken by her father-in-law, Harikesh Yadav on 24.02.2010, on the address of the Jhuggi No. A-46. This shows that this Electricity Bill (Annexure-F) pertains to the Jhuggi No. A-46 of her in-laws, Harikesh Yadav & Janaki, which was a separate dwelling unit and accordingly this is not relevant to determine the eligibility of the Appellant/Claimant as it does not pertain to the Jhuggi No. A-46 (CN-680) regarding which the Appellant/Claimant is claiming allotment from DDA. The Ration Card (Annexure-G) is bearing No. 077004715544

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and it has been issued in favour of the Appellant/Claimant on the address of the Jhuggi No. CN-680 and the name of her husband is also mentioned therein but the date of issuance is not 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 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-46 (CN-680) 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.

49. 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.

50. 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 having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-46 (CN-680) 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

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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-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.

51. 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. 350-18/002.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

52. 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: 28 of 2024

Date of Institution: 08.05.2023

Date of Order: 26.06.2024

Present: Appellant/ Claimant Tara Devi W/o Doodh 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 she is living in Jhuggi bearing No. H-199/N-207/31, 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-199/N-207/31 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

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present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-Fresh/180 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 28 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 27.05.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as by Sh. Radhey Shyam Meena, Dy. Director, for DDA, 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-199/N-207/31 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-199/N-207/31 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Tara Devi has been recorded before us on 27.05.2024, wherein she has stated that she is married with Doodh Nath and having two

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sons, Chandan & Vipiin and two daughters, Sandhya & Shalu. All the children are unmarried.

9. The Appellant/Claimant has stated that she along with her family is living in the double storey Jhuggi No. H-199/N-207/31 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 to the upper floor. Previously her Jhuggi was bearing number N-207/31 but subsequently the number was changed to H-199 and to substantiate these facts her Affidavit dated 04.07.2022 (Annexure-G) has been submitted.

10. The Appellant/Claimant has stated that she has sought allotment from DDA against the said double storey Jhuggi No. H-199/N-207/31 but her claim has been rejected by the Eligibility Determination Committee on the ground that she was found to be claiming allotment against the upper floor and further her Voter ID Card could not be verified in spite of the fact that she has claimed allotment from DDA against the double storey Jhuggi No. H-199/N-207/31 and further she is 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. 28 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I in support of her claim and prayed that DDA be directed to make allotment in her favour.

11. The Appellant/Claimant has stated that she has not got the Jhuggi No. H-199/N-207/31 surveyed/videography and accordingly, no video clip of the Jhuggi No. H-199/N-207/31 is available. However, 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. H-199/N-207/31. Thus the statement of the Appellant/Claimant has duly proved that the double storey Jhuggi No. H-199/N-207/31 was 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.

12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. H-199/N-207/31 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 and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

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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. H-199/N-207/31 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-I, 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 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-Fresh/180 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 18 years of age.

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

<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."

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) - REQUIREMNET 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 the 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 alternative allotment if he possesses any one of the documents out of the list of 12 documents.

19. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015.

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Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET 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 separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

22. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

23. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper

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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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact 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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate 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 this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

25. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

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26. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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.

27. It is further held in Mohammad Hakim's case (supra) 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 a 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.

28. It is further held in Mohammad Hakim's case (supra) 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 separate ration 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

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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.

29. It is further held in Mohammad Hakim's case (supra) 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 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. 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 Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

30. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ 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.

31. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

32. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

33. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

34. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February,

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2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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.

35. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

36. 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 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

37. 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

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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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

38. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

39. It is pointed out that we have already held that the double storey Jhuggi No. H-199/N-207/31 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 and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

40. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the double storey Jhuggi No. H-199/N-207/31 as per the policy guidelines issued by DDA.

41. The Appellant/Claimant has tendered her Voter ID Card No. FGL 1725902 (Annexure-A) & Aadhar Card (Annexure-B) in support of her claim.

42. It is pointed out that the Appellant/Claimant has specifically stated that she was having Voter ID Card No. FGL 1725902 (Annexure-A), which was issued on the address of her native village in district, Azamgarh, Uttar Pradesh and subsequently, she has got her address changed to Jhuggi No. H-199/N-207/31 and got the fresh Voter ID Card No. FGL 1725902 (Annexure-A) issued on 04.05.2024. This accordingly shows that the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date 01.01.2015 issued on the address of Jhuggi No. H-199/N-207/31 regarding which the Appellant/Claimant has been claiming allotment from DDA because the Voter ID Card No.

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FGL 1725902 (Annexure-A) was issued on 04.05.2024, 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. H-199/N-207/31 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.

43. The Appellant/Claimant has tendered the Voter ID Card No. JPF 0772285 (Annexure-C), Aadhar Card (Annexure-B) & PAN Card (Annexure-E) of her husband Dhoodh Nath, Electricity Bill (Annexure-F), Affidavit dated 04.07.2022 (Annexure-G), the Passbook of Union Bank of India (Annexure-H) and Consumer Card (Annexure-I) in support of her claim.

44. It is pointed out that the Voter ID Card No. JPF 0772285 (Annexure-C) of her husband Dhoodh has been issued on 25.07.2003, much prior to the cutoff date 01.01.2015 but no Voter List has been placed on file by the Appellant/Claimant to show that her husband Dhoodh Nath had used this Voter ID Card No. JPF 0772285 (Annexure-C) to cast vote in any of the elections and more particularly in the years from 2012 to 2015. The Electricity Bill (Annexure-F) shows that her husband Dhoodh Nath had taken electricity connection on 14.11.2013. The Passbook of Union Bank (Annexure-H) shows that her husband Dhoodh Nath had opened the account on 29.04.2023, much after the cutoff date 01.01.2015. Furthermore, the Consumer Card (Annexure-I) shows that her husband Dhoodh Nath had got the Consumer Card No. 880796 of Mool Chand Oil Depot issued in his favour on 19th June but the year is legible and accordingly this document being incomplete cannot be considered. 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-199/N-207/31 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,

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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 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 was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. H-199/N-207/31 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 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

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material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-Fresh/180 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 11.07.20232passed 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.

(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: 216 of 2024

Date of Institution: 24.07.2023

Date of Order: 27.06.2024

Present: Appellant/ Claimant Rinki W/o Ghanshyam

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-148/F-207/177, 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-148/F-207/177 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

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has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-201/08.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 216 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 27.05.2024. 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 by Sh. Radhey Shyam Meena, Dy. Director, for DDA, 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-148/F-207/177 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-148/F-207/177 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Rinki has been recorded before us on 27.05.2024 wherein she has stated that her in-laws, Manoj Kumar & Malti, are having three sons; Ghanshyam, Ravinder & Dharminder and out of whom, Ravinder is unmarried, Dharminder

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is married with Mithlesh and having three children. Ghansyam is married with Rinki (Appellant/Claimant) and having two children; Rishab & Vaishnavi.

9. The Appellant/Claimant has stated that her family is having two adjoining Jhuggis bearing numbers F-148 & F-149 and both the Jhuggis comprises of one room on the ground floor and one room has been constructed on the common roof on the first floor by combining the roofs of both the Jhuggis bearing No. F-148 & F-149. Accordingly, there are three separate dwelling units bearing Jhuggi No. F-148 & F-149 on the ground floor and one Jhuggi bearing No. F-149 on the first floor.

Jhuggi on the first floor bearing No. F-149

10. The Appellant/Claimant has stated that her brother-in-law Dharminder along with his wife Mithlesh and children is living on the first floor bearing Jhuggi No. F-149 and regarding that Mithlesh has sought allotment from DDA but her claim has been rejected by Eligibility Determination Committee but aggrieved by the same, she has chosen not to file an Appeal before the Appellate Authority. These facts are not disputed by DDA.

First Jhuggi on the ground floor bearing No. F-149

11. The Appellant/Claimant has stated that her in-laws, Manoj Kumar & Malti, along with their unmarried son Ravinder are living on the ground floor bearing Jhuggi No. F-149 and regarding that DDA has made allotment in favour of her mother-in-law Malti. These facts are not disputed by DDA.

Second Jhuggi on the ground floor bearing No. F-148

12. The Appellant/Claimant has stated that she along with her husband Ghansyam and both the children; Rishab & Vaishnavi, is living on the ground floor bearing Jhuggi No. F-148 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 she has been found to be living on the upper floor and further her Voter Card could not be verified in spite of the fact that she is claiming allotment from DDA against the ground floor bearing Jhuggi No. F-148 and further 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. 216 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.

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13. DDA has furnished survey records along with four video clips of Jhuggi of the family members of the Appellant/Claimant. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. N-207/177 on 18.03.2020 on the ground floor of the said Jhuggi and his photograph with her husband Ghansyam 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.

14. DDA has furnished survey record along with four video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 27.05.2024 wherein she has stated that the first video clip pertains to the Jhuggi on the ground floor Jhuggi of her mother-in-law Malti bearing No. F-149 in which her mother-in-law Malti 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 **"F-149 MALTI G.F"** is seen to have been written. The second and the third video clips pertain to the Jhuggi No. F-148 of the Appellant/Claimant in which from outside the Jhuggi is clearly seen to be a pucca double storey structure and further, the Appellant/Claimant is seen and getting the survey conducted and her room & kitchen are seen on the ground floor and she is heard stating that her family is also living on the first floor and further, she is seen holding a slate in her hand on which **"F-148 (N-207/177) RINKI G.F"** is seen to have been written. The fourth video clip pertains to the first floor of the Jhuggi No. F-149 of Mithlesh in which Vishal S/o Mithlesh is seen and getting the survey conducted on the first floor on behalf of his mother Mithlesh and the room & kitchen of Mithlesh on the first floor is seen and further, he is also seen holding a slate in his hand on which **"F-149 MITHLESH FF"** is seen to have been written.

15. The statement of the Appellant/Claimant as well as the video clips prepared by the DDA survey team shows that the family of the Appellant/Claimant is having two adjoining Jhuggis bearing numbers F-148 & F-149 and they have been joined with each other to construct one room on the common roof on the first floor by combining the roofs of both the Jhuggis bearing No. F-148 & F-149 and accordingly, three dwelling units have been carved. Dharminder along with his wife Mithlesh is living on the first floor bearing No. F-149 but the claim of Mithlesh W/o Dharminder has been rejected by Eligibility Determination Committee against the first floor Jhuggi bearing No. F-149 but she has not filed any Appeal before the

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Appellate Authority thereby challenging the Rejection Order. Furthermore, her in-laws Manoj Kumar & Malti, are living on the ground floor bearing Jhuggi No. F-149 and regarding that DDA has made allotment in favour of Malti whereas the Appellant/Claimant is living on the ground floor bearing Jhuggi No. F-148 and the same is used by her for residential purposes.

16. 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. Accordingly, we have no hesitation in holding that the Appellant/Claimant along with her family was & is still living on the ground floor bearing Jhuggi No. F-148 (F-207/177) and further the Appellant/Claimant is using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said Jhuggi.

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 Jhuggi No. F-148/F-207/177 as per the policy guidelines issued by DDA.

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

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 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

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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. 350-201/08.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 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
> 10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
> 11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

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As envisaged in para above, the 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 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) - REQUIREMNET 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 the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those

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

23. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET 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 separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

26. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

27. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact 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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate 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 this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

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FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

29. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

30. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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 in Mohammad Hakim's case (supra) 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 a 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 is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various

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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 separate ration 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 in Mohammad Hakim's case (supra) 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 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. 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 Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ

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Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

34. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ 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.

35. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

36. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

37. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation

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policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

38. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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.

39. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

40. 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 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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41. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

42. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

43. It is pointed out that we have already held that the Jhuggi No. F-148/F-207/177 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 ground floor of the said Jhuggi for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

44. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the Jhuggi No. F-148/F-207/177 as per the policy guidelines issued by DDA.

45. The Appellant/Claimant has tendered her Voter ID Card bearing No. WHC 2323418 (Annexure-A) and Aadhar Card (Annexure-B) in support of her claim.

46. It is pointed out that the Appellant/Claimant has tendered the Voter ID Card No. WHC 2323418 (Annexure-A) and it has been issued on 02.04.2019, 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. There is no doubt that Voter ID Card (Annexure-A) has been issued on the address

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of the Jhuggi No. F-149 but it is pertinent to point out that the Aadhar Card (Annexure-B) of the Appellant/Claimant bearing No. 6429 9598 5369 has been issued on the address of the Jhuggi No. F-207/177. 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-148/F-207/177 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.

47. The Appellant/Claimant has also tendered the Voter ID Card No. WHC 1620400 (Annexure-C), Aadhar Card (Annexure-D), PAN Card (Annexure-E) & Driving Licence (Annexure-F) of her husband Ghansyam and Passbook of Karnataka Bank Limited (Annexure-G) in support of her claim.

48. It is pointed out that the Appellant/Claimant has tendered the Voter ID Card No. WHC 1620400 (Annexure-C) of her husband Ghansyam and it has been issued on 22.02.2009, much prior to the cutoff date of 01.01.2015 but the Appellant/Claimant has not tendered any Voter List to show that he has used his Voter ID Card to cast his vote in any of the Voter Lists of the year 2012 to 2015. The Voter ID Card (Annexure-C) & Aadhar Card (Annexure-D) of Ghansyam has been issued on the address of the Jhuggi No. F-207/177. The Driving Licence (Annexure-F) of Ghansyam has been issued on 31.01.2019, much after the cutoff date of 01.01.2015. The Passbook of Karnataka Bank (Annexure-G) shows that her husband had opened the account but the date of opening the account is not mentioned therein but it is not disputed that the address in Passbook (Annexure-G) is mentioned to be F-207/177. 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-148/F-207/177 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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49. 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.

50. 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 having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. F-148/F-207/177 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-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.

51. 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. 350-201/08.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

52. 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: 224 of 2024

Date of Institution: 25.07.2023

Date of Order: 27.06.2024

Present: Appellant/ Claimant Kamla Devi W/o Shiv 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-207/335, 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. N-207/335 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. 350-10/66.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 224 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 16.05.2024. 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 by Sh. Radhey Shyam Meena, Dy. Director, for DDA, 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. N-207/335 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-207/335 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Kamla Devi has been recorded before us on 16.05.2024 wherein she has stated that she was married with Shiv Kumar and having three children; Ashu, Ashish & Puja. Shiv Kumar had expired on 05.12.2005 and his Death

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Certificate is Annexure-J. Ashu & Ashish are unmarried whereas Puja is married with Anand and she is living in Jhuggi No. B-25, Jailorwala Bagh and DDA has made allotment in her favour against her matrimonial side.

9. The Appellant/Claimant has stated that her husband Shiv Kumar in his lifetime had purchased the Jhuggi No. N-207/335 from one Ram Kirpal.

10. The Appellant/Claimant has stated that she is having a double storey Jhuggi No. N-207/335, Jailorwala Bagh, Ashok Vihar and it comprises of one room on each floor and a pucca staircase has been constructed 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. N-207/335 but her claim has been rejected by Eligibility Determination Committee on the ground that she has been found to have claimed allotment against the upper floor and further her Voter Card could not be verified in spite of the fact that she is claiming allotment from DDA against the double storey Jhuggi No. N-207/335 and further she is 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. 224 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.

11. DDA has furnished survey records of Jhuggi No. N-207/335. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. N-207/335 on 20.03.2020 on the ground floor of the said Jhuggi and her photographs 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 videography the Appellant/Claimant was not present and she had not got the videography conducted and accordingly no video clip is attached in token thereof because no video clip of the Jhuggi of the Appellant/Claimant is available.

12. However, it is pointed out that DDA has placed on file the survey records thereby showing that the Jhuggi of the Appellant/Claimant was surveyed on 20.03.2020 and it shows that the survey was got conducted by the Appellant/Claimant Kamla Devi and she is widow and the details of the family members is also annexed thereto and further, the Jhuggi No. N-207/335 against which the Appellant/Claimant has sought allotment from DDA was found to be pucca

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structure and the photographs of the front of the Jhuggi as well as the Appellant/Claimant is also annexed thereto. Therefore, there is nothing to disbelieve the statement of the Appellant/Claimant that her Jhuggi No. N-207/335 was a double storey pucca structure and the same was solely used for residential purposes.

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 about the existence of the double storey Jhuggi No. N-207/335. Thus the statement of the Appellant/Claimant as well as the survey records has duly proved that the double storey Jhuggi No. N-207/335 was 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. N-207/335 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 and further the Appellant/Claimant has claimed alternative allotment against the said double storey Jhuggi.

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. N-207/335 as per the policy guidelines issued by DDA.

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

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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. 350-10/66.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**
> **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

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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."

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.

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GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET 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 the 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 alternative allotment if he possesses any one of the documents out of the list of 12 documents.

21. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET 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 separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

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24. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

25. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact 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

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whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate 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 this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

27. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

28. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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 in Mohammad Hakim's case (supra) 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

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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 a 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 is further held in Mohammad Hakim's case (supra) 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 separate ration 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 in Mohammad Hakim's case (supra) 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

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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 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. 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 Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

32. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ 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.

33. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of each 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

34. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development**

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Authority versus Mohammad Hakim & Anr" before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

35. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

36. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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.

37. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor

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and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

38. 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 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

39. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

40. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

41. It is pointed out that we have already held that the double storey Jhuggi No. N-207/335 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 and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

42. Now we shall now appraise the material placed on file to determine the eligibility of the

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Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the double storey Jhuggi No. N-207/335 as per the policy guidelines issued by DDA.

43. The Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), PAN Card (Annexure-E), Letter No. F. No.AERO/AC-17/2024/174 dated 01.05.2024 (Annexure-H) of AERO, AC-17, Wazirpur & Letter No. F. No./AERO/AC-17/2024/173 dated 01.05.2024 (Annexure-I) of AERO, AC-17, Wazirpur in support of her claim.

44. It is pointed out that the Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-B). The first Voter ID Card (Annexure-A) is bearing number WHC 1780506 (Annexure-A) and it has been issued on 04.08.2011, much prior to the cutoff date of 01.01.2015. The second Voter ID Card (Annexure-B) is bearing No. WHC 3662236 and it has been issued on 10.07.2023, much after the cutoff date of 01.01.2015. It is also pointed out that both the Voter ID Cards (Annexure-A & Annexure-B) have been issued on the address of the Jhuggi No. N-207/335 but the Appellant/Claimant has failed to explain the reason for having got two Voter ID Cards issued from the Election Commission. This shows that the second Voter ID Card No. WHC 3662236 (Annexure-B) was got issued by her thereby concealing from the Election Commission that she was already having Voter ID Card No. WHC 1780506 (Annexure-A).

45. It is also pointed out that the Letter No. F. No./AERO/AC-17/2024/173 dated 01.05.2024 (Annexure-I) issued by AERO-AC-17, Wazirpur, shows that Voter ID Card No. WHC 1780506 (Annexure-A) could not be verified from the records of the Election Commission and her name is not mentioned in any of the Voter Lists from 2012 to 2015 and 2018 to 2020. This shows that the Voter ID Card No. WHC 1780506 (Annexure-A) is a forged & fabricated document.

Further, the Letter No. F. No.AERO/AC-17/2024/174 dated 01.05.2024 (Annexure-H) issued by AERO-AC-17, Wazirpur, shows that Voter ID Card No. WHC 3662236 (Annexure-B) could not be verified from the records of the Election Commission and her name is not mentioned

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in any of the Voter Lists from 2012 to 2015 and 2018 to 2020. This shows that the Voter ID Card No. WHC 3662236 (Annexure-B) is also a forged & fabricated document.

46. The Letters (Annexure-H & Annexure-I) issued by AERO-AC-17, Wazirpur, show that both the Voter ID Cards (Annexure-A & Annexure-B) tendered by the Appellant/Claimant are forged & fabricated documents and that is why her name does not reflect in any of the Voter Lists and more specifically in the years 2012 to 2015. This shows that the Appellant/Claimant has forged & fabricated documents in order 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. N-207/335 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.

47. The Appellant/Claimant has tendered the Passbook of Bank of Baroda (Annexure-D) and two Ration Cards (Annexure-F & Annexure-G) in support of her claim.

48. It is pointed out that the Passbook (Annexure-D) of Bank of Baroda shows that the Appellant/Claimant has opened the account on 29.11.2006. Furthermore, the old Ration card (Annexure-F) is bearing No. BPL 53170045 and it has been issued on 06.08.2002 in the name of Ram Kirpal and the name of the Appellant/Claimant and her husband is mentioned. It is pointed out that Ram Kripal is the erstwhile owner from whom her husband Shiv Kumar had allegedly purchased the Jhuggi No. N-207/335 and accordingly, appearing of the names of the Appellant/Claimant and her husband in the Ration Card of the previous owner of the Jhuggi creates doubt & suspicion. The second Ration Card (Annexure-G) is bearing No. 191766 and it has been issued on 07.07.2014 in favour 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 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. N-207/335 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

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eligibility criteria as per the guidelines issued by DDA.

49. 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.

50. 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 having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. N-207/335 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-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.

51. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress

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material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-10/66.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

52. 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: 209 of 2024

Date of Institution: 20.07.2023

Date of Order: 28.06.2024

Present: Appellant/ Claimant Shahim S/o Mustkin

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-118, 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-118 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. 350-108/25.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 209 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 29.05.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. 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-118 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-118 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Shahim has been recorded before us on 29.05.2024 wherein he has stated that his parents, Mohd. Mustakin & Zarina, are having four sons; Sheru, Pappu, Salman & Shahim and one daughter Sahiba. His mother Zarina, is

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living in their native place in Sultanpur, Uttar Pradesh whereas his father Mohd. Mustakin with his son Shahim (Appellant/Claimant) is living in Jailorwala Bagh, Ashok Vihar, Delhi. All the children are married. Sahiba is married with Aftab and she is living in her matrimonial home in Kanpur, Uttar Pradesh. Sheru is married with Shabnam and having two children and they are living on rent in Jailorwala Bagh. Pappu & Salman are married and they are living with their respective families in District Sultanpur, Uttar Pradesh. Shahim (Appellant/Claimant) is married with Sabina and having three children; Arshad, Zeenat & Zoya.

9. The Appellant/Claimant has stated that he is having a double storey Jhuggi No. A-118, Jailorwala Bagh, Ashok Vihar 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.

10. The Appellant/Claimant has stated that his father Mohd. Mustakin is living on the first floor of the Jhuggi No. A-118 whereas the Appellant/Claimant along with his wife Sabina and all the three children; Arshad, Zeenat & Zoya, is living on the ground floor of the said Jhuggi. The Appellant/Claimant has sought alternative allotment from DDA against the said double storey Jhuggi No. A-118 but his claim has been rejected by Eligibility Determination Committee on the ground that he has been found to have claimed allotment against the upper floor and further his Voter ID Card could not be verified in spite of the fact that he is having all the requisite documents issued as per policy guidelines issued by DDA and accordingly, aggrieved by the same, he has filed the present Appeal No. 209 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, 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-118. As per survey records the survey was got conducted by Sabina, who is the wife of the Appellant/Claimant, of Jhuggi No. A-118 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 Sabina, 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.

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12. DDA has furnished survey record along with one video clip pertaining to the Jhuggi No. A-118. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 29.05.2024 wherein he has stated that the video clip pertains to the Jhuggi No. A-118 in which the Jhuggi is clearly seen from outside to be a double storey structure and further, Sabina, who is wife of the present Appellant/Claimant is seen on the ground floor and getting the survey conducted on behalf of the present Appellant/Claimant Shahim and their room & kitchen are seen on the ground floor and further, Sabina is also seen holding a slate in her hand on which **"A-118 SHAHIM G+1"** is 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. A-118. 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-118 was 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-118 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

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. A-118 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 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

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Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-108/25.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 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.

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

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

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

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

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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) - REQUIREMNET 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 the 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 alternative allotment if he possesses any one of the documents out of the list of 12 documents.

21. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET 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 separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card,

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will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

24. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

25. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact 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

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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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate 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 this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

27. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

28. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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 in Mohammad Hakim's case (supra) 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

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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 a 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 is further held in Mohammad Hakim's case (supra) 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 separate ration 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 in Mohammad Hakim's case (supra) 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

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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 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. 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 Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

32. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ 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.

33. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

34. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High

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Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

35. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

36. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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.

37. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

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GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

38. 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 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

39. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

40. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

41. It is pointed out that we have already held that the double storey Jhuggi No. A-118 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

42. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to

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01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi No. A-118 as per the policy guidelines issued by DDA.

43. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), PAN Card (Annexure-D), Letter No. F. No. AERO/AC-17/2023/110 dated 18.07.2023 (Annexure-K) of AERO, AC17, Wazirpur, Voter List of the year 2016 (Annexure-L) and Voter List of the year 2017 (Annexure-M) in support of his claim.

44. It is pointed out that the Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B). The Appellant/Claimant has failed to explain the reasons for having got two Voter ID Cards issued in his favour and accordingly, this creates doubt & suspicion. The first Voter ID Card (Annexure-A) of the Appellant/Claimant is bearing number WHC 1969870 (Annexure-A) and it has been issued on 28.08.2015, much after the cutoff date of 01.01.2015. Furthermore, the Letter No. F. No. AERO/AC-17/2023/110 dated 18.07.2023 (Annexure-K) issued by AERO, AC-17, Wazirpur verifies that the Voter ID Card No. WHC 1969870 of the Appellant/Claimant is a valid document and further, it is also mentioned that this Voter ID Card is reflected in the Voter List of the year 2016 & 2017. Moreover, the name of the Appellant/Claimant appears at Sl. No. 397 in the Voter List of the year 2016 (Annexure-L) & at Sl. No. 415 in the Voter List of the year 2017 (Annexure-M). However, as already pointed out above, the first Voter ID Card (Annexure-A) of the Appellant/Claimant is bearing number WHC 1969870 (Annexure-A) and it has been issued on 28.08.2015, much after the cutoff date of 01.01.2015and 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.

45. Furthermore, the second Voter ID card (Annexure-B) of the Appellant/Claimant is bearing No. WHC 3663044 and it has been issued on 26.07.2023, much after the cutoff date of 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.

46. Furthermore, it is pointed out that both the Voter ID Cards (Annexure-A & Annexure-B) have been issued on the address of the Jhuggi No. A-118, regarding which the Appellant/Claimant is claiming allotment from DDA but it is pertinent to point out that both the Voter ID Cards (Annexure-A & Annexure-B) have been issued much after the cutoff date of 01.01.2015 and accordingly, the question of his name appearing in any of 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 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-118 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.

47. The Appellant/Claimant has also tendered the Voter ID Card No. WHC 1990357 (Annexure-E), Aadhar Card (Annexure-F) & PAN Card (Annexure-G) of his wife Shabina, Electricity Bill (Annexure-H), Ration Card (Annexure-I) and Passbook of Bank of Baroda (Annexure-J) in support of his claim.

48. It is pointed out that the Voter ID Card No. WHC 1990357 (Annexure-E) of his wife Shabina has been issued on 25.06.2016, 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 from 2012 to 2015 does not arise. Furthermore, the material placed on file shows that neither the Appellant/Claimant nor his wife Shabina was having a valid Voter ID Card issued on the cutoff date 01.01.20156 issued on the address of the Jhuggi No. A-118, regarding which the Appellant/Claimant is claiming allotment from DDA and further, their names 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. It is pointed out that the Electricity Bill (Annexure-H) shows that the Appellant/Claimant had taken the electricity connection on 18.08.2015, much after the cutoff date of 01.01.2015. The Ration Card (Annexure-I) is bearing No. 077005260088 and it has been issued in favour of his wife Shabina and the name of the Appellant/Claimant has been mentioned therein and further it has been issued on 17.03.2020, much after the cutoff date of 01.01.2015. The Passbook of Bank of Baroda (Annexure-J) shows that the Appellant/Claimant had opened the account on 20.02.2016, 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 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-118, Jailorwala Bagh, regarding

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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.

49. 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.

50. 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-118, 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-M, 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

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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.

51. 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. 350-108/25.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

52. 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: 21 of 2024

Date of Institution: 04.05.2023

Date of Order: 28.06.2024

Present: Appellant/ Claimant Sunil Saroj S/o Anika Saroj

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-220, 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-220 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/Fresh/193 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 121 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 27.05.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-D, 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-220 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-220 as per the policy guidelines issued by DDA.

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

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27.05.2024 wherein he has stated that his parents, Anika & Unrawta Devi, are having six sons; Pintu, Rinku, Amit, Sunil, Nilesh & Vikram and three daughters; Minta, Badam & Guddi. Out of whom, Sunil, Nilesh, Vikram & Guddi are unmarried whereas all the remaining children are married. Both the parents are living in their native village in District Azamgarh, Uttar Pradesh. Minta is married with Mandhari and Badam is married with Om Prakash and both of them are living in their respective matrimonial homes in District Azamgarh, Uttar Pradesh. Pintu is married with Babita and having four children. Rinku is married with Archana and having three children. Amit is married with Rajni. The wives of Pintu, Rinku & Amit along with their children are living with their in-laws, Anika & Unrawta Devi, in their native village in District Azamgarh, Uttar Pradesh whereas all the six brothers, namely, Pintu, Rinku, Amit, Sunil, Nilesh & Vikram are living jointly in Jailorwala Bagh, Ashok Vihar.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. H-220 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. All the six brothers, including the present Appellant/Claimant Sunil, are living in the said double storey Jhuggi No. H-220 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 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 has claimed allotment against the double storey Jhuggi No. H-220 and further, he is having all the requisite documents as per the policy guidelines issued by DDA and accordingly, aggrieved by the same, he has filed the present Appeal No. 21 of 2024 before the Appellate Authority for redressal. The Appellant/ Claimant has also tendered documents, Annexure-A to Annexure-D, in support of his claim and prayed that DDA be directed to make allotment in his favour.

10. 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 27.05.2024 wherein he has stated that the video clip pertains to the Jhuggi No. H-220 in which the Jhuggi is clearly seen from outside to be a double storey Jhuggi and an iron ladder is seen to have been placed outside for going to the upper floor and further, the Jhuggi is seen to have been locked and a plate is pasted on the wall of the Jhuggi on which **"H-220 LOCKED"** is clearly seen to have been written.

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11. It is pointed out that DDA has furnished survey records along with one video clip of Jhuggi No. H-220 and as per survey records the Jhuggi No. H-220 on 09.03.2020 was found locked. The Appellant/Claimant has stated that he along with his five brothers, namely, Pintu, Rinku, Amit, Nilesh & Vikram has been living in the Jhuggi No. H-220 but he has failed to explain as why none of the six brothers was present at the time of survey/videography and as to why the Jhuggi is seen locked and this creates doubt & suspicion.

12. It is pointed out that DDA has not disputed about the existence of Jhuggi No. H-220 of the Appellant/Claimant but his claim was rejected on the grounds that he was not having requisite documents and not on the grounds that his Jhuggi was not found to exist. 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. H-220. 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-220 was 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-220 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

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. H-220 as per the policy guidelines issued by DDA.

15. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The

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Appellant/ Claimant has tendered documents, Annexure-A to Annexure-D, 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 cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350/Fresh/193 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**
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.

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

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

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

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) - REQUIREMNET 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 the 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 alternative allotment if he possesses any one of the documents out of the list of 12 documents.

20. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET 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 separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

23. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

24. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of

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the fact 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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate 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 this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

26. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

27. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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

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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 in Mohammad Hakim's case (supra) 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 a 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 is further held in Mohammad Hakim's case (supra) 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 separate ration 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.

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30. It is further held in Mohammad Hakim's case (supra) 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 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. 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 Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

31. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ 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.

32. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of

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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.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

33. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

34. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

35. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18

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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.

36. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

37. 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 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

38. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

39. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

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40. It is pointed out that we have already held that the double storey Jhuggi No. H-220 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

41. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi No. H-220 as per the policy guidelines issued by DDA.

42. The Appellant/Claimant has tendered his Voter ID Card No. WHC 3594488 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of his claim.

43. It is pointed out that the Appellant/Claimant has tendered his Voter ID Card (Annexure-A) bearing no. WHC 3594488 and it has been issued on 27.02.2022, much after the cutoff date of 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. The Appellant/Claimant has also tendered his Aadhar Card (Annexure-B) bearing No. 5215 3953 0257 and it has been issued on 10.09.2014, however, it is pointed out that the Appellant/Claimant has come forward with a story that he along with his five brothers, namely, Pintu, Rinku, Amit, Nilesh & Vikram has been living in the Jhuggi No. H-220, Jailorwala Bagh and out of whom, three of the brothers, namely, Pintu, Rinku & Amit are married but neither their Voter ID Cards nor Aadhar Cards, etc. have been placed on file to show that they are also having documents issued on the address of the Jhuggi No. H-220, regarding which the Appellant/Claimant has been 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-220 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-

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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.

44. The Appellant/Claimant has tendered the Electricity Bill (Annexure-D) thereby showing that the Appellant/Claimant had taken the electricity connection on 01.08.2013 but it is pertinent to point out that in this, it is duly mentioned that the electricity is supplied on the address of the Jhuggi No. N-207/62, Jailorwala Bagh whereas the billing address is mentioned to be Jhuggi No. H-220, Jailorwala Bagh and this accordingly shows that this Electricity Bill does not pertain to the Jhuggi No. H-220 and accordingly it is 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 the Jhuggi No. H-220, 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 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 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-220, 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) &

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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 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-D, 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 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/193 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: 24 of 2024

Date of Institution: 08.05.2023

Date of Order: 28.06.2024

Present: Appellant/ Claimant Ram Sajivan S/o Nanku

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-207/51, 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. N-207/51 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/Fresh/10 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 24 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 15.05.2024. 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. 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-207/51 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. N-207/51 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Ram Sajivan has been recorded before us on 15.05.2024 wherein he has stated that he is married with Phool Kali having one son; Kamlesh and five daughters; Gudda, Bhanu, Khushi, Kesha & Patta. All the children are married.

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Gudda was married with but he does not know the name of her husband but afterwards Gudda has expired since long. Bhanu is married with Prakash and Khushi is married with Manish and both of them are living in their respective matrimonial homes in Pratapgarh, Uttar Pradesh. Kesha is married but she does not remember the name of her husband and she is living in her matrimonial home in Uttar Pradesh. Patta had died since long. Kamlesh is married with Suman and having two children; Laxmi & Dipesh.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. N-207/51 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 he along with his wife Phool Kali is living on the ground floor of the Jhuggi No. N-207/51 whereas his son Kamlesh along with his family is living on the first floor of the said Jhuggi.

11. The Appellant/Claimant has sought allotment from DDA regarding that said double storey Jhuggi No. N-207/51 but his claim has been rejected by Eligibility Determination Committee on the ground that he has been found to have claimed allotment against the upper floor and further his Voter ID Could not be verified in spite of the fact that he has claimed against the double storey Jhuggi No. N-207/51 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. 24 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. N-207/51. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. N-207/51 on the ground floor of the said Jhuggi. 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. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 15.05.2024 wherein he has stated that the video clip pertains to the Jhuggi No. N-207/51 in which the Appellant/Claimant Ram Sajivan is seen and getting the survey conducted and further his room & kitchen are seen and further he is also seen holding a slate in his hand on which **"H-**

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204 (N-207/51) RAM SAJIWAN (NOT IN LIST) G+1" is clearly seen to have been written and further, the Appellant/Claimant is also heard thereby making a statement that this Jhuggi is a double storey structure and his son is living on the first floor.

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. N-207/51. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. N-207/51 was 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. N-207/51 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

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. N-207/51 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-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 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/Fresh/10 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**
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.

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

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

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

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) - REQUIREMNET OF DOCUMENTS

21. 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 the 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 alternative allotment if he possesses any one of the documents out of the list of 12 documents.

22. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy 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 one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and 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 alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET 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 separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

25. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy 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

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01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

26. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the 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 and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact 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 legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor

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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 this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

28. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

29. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) 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 in Mohammad Hakim's case (supra) 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 a 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

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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 is further held in Mohammad Hakim's case (supra) 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 separate ration 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 in Mohammad Hakim's case (supra) 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 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. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made

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it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

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

34. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding 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.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

35. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

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36. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has 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, is perfectly legal & applicable to determine their eligibility.

37. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative 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.

38. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

39. 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

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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 and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

40. 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 alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

41. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

42. It is pointed out that we have already held that the double storey Jhuggi No. N-207/51 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

43. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi No. N-207/51 as per the policy guidelines issued by DDA.

44. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B),

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Aadhar Card (Annexure-C), Letter No. F. No./AERO/AC-17/2024/175 dated 01.05.2024 (Annexure-G) of AERO, AC-17, Wazirpur and Letter No. F. No./AERO/AC-17/2024/176 dated 01.05.2024 (Annexure-H) of AERO, AC-17, Wazirpur in support of his claim.

45. It is pointed out that the Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B). The first Voter ID Card (Annexure-A) of the Appellant/Claimant is bearing number DL/04/053/270046 (Annexure-A) and it has been issued on 03.08.1995, much prior to the cutoff date of 01.01.2015. Further, no Voter List is placed on file to show that the Appellant/Claimant had used this Voter ID Card No. DL/04/053/270046 (Annexure-A) to cast vote in any of the elections after it was issued on 03.08.1995. It is also pointed out that vide Letter No. F. No./AERO/AC-17/2024/175 dated 01.05.2024 (Annexure-G), AERO-AC-17, Wazirpur, it has reported that the Voter ID Card No. DL/04/053/270046 (Annexure-A) could not be verified as per the records of the Election Commission and his name does not appear in any of the Voter Lists from 2012 to 2015. This shows that the Voter ID Card No. DL/04/053/270046 (Annexure-A) is a forged & fabricated document.

46. It is also pointed out that the second Voter ID Card (Annexure-B) of the Appellant/Claimant is bearing No. WHC 3665585 and it has been issued on 24.08.2023, much after the cutoff date of 01.01.2015. Further, vide Letter No. F. No./AERO/AC-17/2024/176 dated 01.05.2024 (Annexure-H) issued by AERO-AC-17, Wazirpur, has reported that Voter ID Card No. WHC 3665585 (Annexure-B) could not be verified as per the records of the Election Commission and his name does not appear in any of the Voter Lists from 2012 to 2015. This shows that the Voter ID Card No. WHC 3665585 (Annexure-B) is a forged & fabricated document. 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. N-207/51, 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.

47. The Appellant/Claimant has tendered two Ration Cards (Annexure-D & Annexure-E) and Electricity Bill (Annexure-F) in support of his claim.

48. It is pointed out that the old Ration card (Annexure-D) is bearing No. APL 53230620 and it has been issued on 18.09.2005 in favour of the Appellant/Claimant. The new Ration Card (Annexure-E) is bearing No. 077004400996 and it has been issued in favour of his wife Phool

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Kali and the name of the Appellant/Claimant is mentioned therein but the date of issuance is not mentioned. The Electricity Bill (Annexure-F) shows that the Appellant/Claimant had taken the electricity connection on 06.07.2012. 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-207/51, 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.

49. 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.

50. 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. N-207/51, 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

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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.

51. 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/10 dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

52. 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**