Orders of Appellate authority for month of August, 2023 have been placed as per serial number mentioned as under:-

SR.	APPLICANTS NAME	JHUGGI NO	APPEAL NO	APPEAL DATE	ORDER DATE	REMARKS
1.	DILIP GUPTA S/O DINESH GUPTA	C-417	386/2023	29.11.2022	01.08.2023	REJECTED
2.	MANOJ MAJUMDAR S/O SUBHASH MAJUMDAR	C-237	381/2023	29.11.2022	01.08.2023	REJECTED
3.	SUMITRA DAS W/O SANJAY DAS	C-430	388/2023	29.11.2022	01.08.2023	REJECTED
4.	GEETA DEVI W/O MOHAN C	A-310	392/2023	29.11.2022	01.08.2023	REJECTED
5.	NITI BISWAS S/O NARAYAN BISWAS	C-180	534/2023	05.12.2022	01.08.2023	REJECTED
6.	MANOJ SARKAR S/O VIPUL SARKAR	C-22	565/2023	06.12.2022	01.08.2023	REJECTED
7.	SEHJAD S/O MD. KALIM	C-342	682/2023	24.01.2023	01.08.2023	REJECTED
8.	POONAM DEVI W/O RANJIT PASWAN	B-05	267/2022	24.11.2022	02.08.2023	REJECTED
9.	PANKAJ S/O RAJVEER SINGH	C-549	421/2023	29.11.2022	02.08.2023	REJECTED
10.	KANCHAN BURMAN W/O SAPAN BURMAN	C-293	446/2023	29.11.2022	02.08.2023	REJECTED
11.	GULSHER AHMAD S/O TOFIQ AHMED	C-311/A	578/2023	06.12.2022	02.08.2023	REJECTED
12.	RATNA MANDAL W/O ANAND MANDAL	C-98	622/2023	19.12.2022	02.08.2023	REJECTED
13.	SAVITA DAS W/O SUKUMAL DAS	C-413`	689/2023	27.01.2023	02.08.2023	REJECTED
14.	BRIJ RAJ YADAV S/O PHOOL BADAN	C-569	698/2023	31.01.2023	02.08.2023	REJECTED
15.	SUBHANKAR HALDAR S/O SHANKARI HALDAR	C-258	382/2023	29.11.2022	03.08.2023	REJECTED
16.	DEV RANI W/O JAI PRAKASH	C-512	415/2023	29.11.2022	03.08.2023	REJECTED
17.	ARJUN MANDAL S/O JEETAN MANDAL	C-176	454/2023	30.11.2022	03.08.2023	REJECTED
18.	PRIYANKA W/O RAJ KUMAR SINGH	C-543	509/2023	02.12.2022	03.08.2023	REJECTED
19.	GAUTAM S/O SUKH LAL	C-232	561/2023	06.12.2022	03.08.2023	REJECTED
20.	RAJNEESH KUMAR SINGH S/O VIRENDER SINGH	C-199	582/2023	07.12.2022	03.08.2023	REJECTED

21.	SANJAY S/O VIJAY SINGH	C-15	726/2023	23.02.2023	03.08.2023	REJECTED
22.	SANGEETA HALDAR W/O RAJU HALDAR	B-137	470/2023	30.11.2022	04.08.2023	REJECTED
23.	ANIL JHA S/O SHIV NANDAN JHA	C-82/A	545/2023	05.12.2022	04.08.2023	REJECTED
24.	ANITA MANDAL D/O DEBU MONDAL	A-215	547/2023	05.12.2022	04.08.2023	REJECTED
25.	SANDEEP S/O ARA BINDU GAIN	B-237	563/2023	06.12.2022	04.08.2023	**DISMISSED**
26.	NAYAN TARA W/O SANJAY	C-385	594/2023	07.12.2022	04.08.2023	REJECTED
27.	CHANDAN SHARMA S/O JAGNARAYAN SHARMA	C-337	634/2023	27.12.2022	04.08.2023	REJECTED
28.	GAUTAM DAS S/O SATYAM DAS	A-191	669/2023	25.01.2023	04.08.2023	REJECTED
29.	KAMLESH W/O SURESH	B-332	305/2023	28.11.2022	07.08.2023	REJECTED
30.	ANNODA W/O AVIRAM	C-418	318/2023	28.11.2022	07.08.2023	REJECTED
31.	SUDHIR KUMAR S/O RAM BACHAN	C-665	623/2023	20.12.2022	07.08.2023	REJECTED
32.	SUMIT KUMAR JHA S/O SUNIL JHA	C-82/A	663/2023	05.12.2022	07.08.2023	REJECTED
33.	UTTAM BURMAN S/O BIREN BURMAN	C-244	664/2023	05.12.2022	07.08.2023	REJECTED
34.	ANIL KUMAR PRAJAPATI S/O NAND LAL PRAJAPATI	A-154	679/2023	23.01.2023	07.08.2023	REJECTED
35.	KHUSHBOO D/O MD. GULZAR	B-30	712/2023	07.02.2023	07.08.2023	REJECTED
36.	RINKU SHAH S/O JADUNANDAN SHAH	B-95	402/2023	29.11.2022	08.08.2023	**DISMISSED**
37.	SUNITA SHAH W/O CHETAN SHAH	B-95	403/2023	29.11.2022	08.08.2023	**DISMISSED**
38.	LOKESHWAR GOSWAMI S/O MATHURA GOSWAMI	B-96	568/2023	06.12.2022	08.08.2023	REJECTED
39.	VIJAY PRAMANIK S/O KANAI PRAMANIK	A-221	613/2023	09.12.2022	08.08.2023	REJECTED
40.	PAWAN GUPTA S/O DEEPCHAND GUPTA	A-267	617/2023	14.12.2022	08.08.2023	REJECTED
41.	ANJU BURMAN W/O TARAK	B-417	630/2023	26.12.2022	08.08.2023	REJECTED
42.	HARDESH GUPTA S/O DEEP CHAND	A-267	642/2023	14.12.2022	08.08.2023	REJECTED
43.	ANITA D/O CHANDI BURMAN	B-390	693/2023	30.01.2023	08.08.2023	REJECTED
44.	SHUBHAJJIT MANDAL S/O GOUR MANDAL	A-220	708/2023	06.02.2023	08.08.2023	**DISMISSED**

45.	VARSHA W/O RAJESH KUMAR	B-285	34/2022	18.11.2022	09.08.2023	REJECTED
46.	DILIP BAPARI S/O PRAMATHA BAPARI	C-352	371/2023	29.11.2022	09.08.2023	REJECTED
47.	SAROJ W/O KAMLESH	B-503	452/2023	30.11.2022	09.08.2023	REJECTED
48.	DHARMENDRA SINGH S/O CHANDRA DEO SINGH	R-36	583/2023	07.12.2022	09.08.20230	REJECTED
49.	RATTAN KUMARA W/O SH. GASHI RAM	A-369	614/2023	12.12.2022	09.08.2023	REJECTED
50.	KAMAL PATRA S/O GHANSHYAM PATRA	A-327/A	628/2023	23.12.2022	09.08.2023	REJECTED
51.	HAR GOVIND S/O RAM SEWAK	A-369	691/2023	30.01.2023	09.08.2023	REJECTED
52.	RAKESH MISTRY S/O UPENDER MISTRY	B-131	33/2022	18.11.2022	10.08.2023	**DISMISSED**
53.	SARITA KUMARA W/O VIKRAM KUMAR	B-665	41/2022	21.11.2022	10.08.2023	REJECTED
54.	SAMEER HALDAR S/O DILIP HALDAR	C-62	53/2022	21.11.2022	10.08.2023	**DISMISSED**
55.	INDERKALA D/O KEDAR NATH	B-692	550/2023	06.12.2022	10.08.2023	REJECTED
56.	MEENA W/O RISHI PAL	A-04	605/2023	23.11.2022	10.08.2023	REJECTED
57.	VIKESH KUMAR S/O RAMAKANT	B-665	627/2023	23.12.2022	10.08.2023	REJECTED
58.	MITHUN HALDAR S/O RABINDRA NATH HALDAR	B-272	694/2023	30.01.2023	10.08.2023	REJECTED
59.	SARITA W/O HARI KISHOR	A-376	57/2022	21.11.2022	11.08.2023	REJECTED
60.	NARESH KUMAR S/O KIRPAL BENI	A-376	188/2022	23.11.2022	11.08.2023	REJECTED
61.	SANJAY KUMAR S/O BHAGWANT MEHTO	A-02	330/2023	28.11.2022	11.08.2023	REJECTED
62.	DINESH PRASAD S/O RAM SWARUP PRASAD	A-02	331/2023	28.11.2022	11.08.2023	REJECTED
63.	SANTOSH S/O BHAGWAT MEHTO	A-02	334/2023	28.11.2022	11.08.2023	REJECTED
64.	MONA SARKAR W/O SAPAN SARKAR	B-266	440/2023	29.11.2022	11.08.2023	**DISMISSED**
65.	BIBHA DHALI W/O ATAL DHALI	C-229	359/2023	29.11.2022	14.08.2023	REJECTED
66.	BISWAJIT TARAI S/O SANTAN TARAI	C-74	638/2023	28.12.2022	14.08.2023	REJECTED
67.	SANTOSH SINGH S/O BILAT SINGH	C-586	645/2023	02.01.2023	14.08.2023	REJECTED
68.	KALYANI SARKAR W/O ASHISH SARKAR	A-329	657/2023	11.01.2023	14.08.2023	REJECTED

69.	SANJEEV SIKDAR S/O SUBHASH	C-75	659/2023	12.01.2023	14.08.2023	REJECTED
70.	DEEPAK MANDAL S/O BRIJESH MANDAL	C-150	666/2023	13.01.2023	14.08.2023	**ALLOWED**
71.	TABREJ ALAM S/O RAFIQ MASTER	C-542	165/2022	23.11.2022	16.08.2023	REJECTED
72.	VIJAY BARUA S/O P.K BARUA	B-333/A	229/2022	23.11.2022	16.08.2023	REJECTED
73.	AJAY ROY S/O ARUN ROY	C-3	615/2023	12.12.2022	16.08.2023	REJECTED
74.	MANOJ DAS S/O HARDHAN DAS	A-117	714/2023	13.02.20 23	16.08.2023	REJECTED
75.	RAJU SHARMA S/O RAMAYAN SHARMA	C-298	718/2023	15.02.2023	16.08.2023	REJECTED
76.	SUNIL DAS S/O SHAKTI DAS	B-180	93/2022	21.11.2022	18.08.2023	REJECTED
77.	SUMITRA DAS W/O SANOT KUMAR DAS	B-180	350/2023	28.11.2022	18.08.2023	REJECTED
78.	KASHI RAM S/O SHAKTI DAS	B-180	351/2023	28.11.2022	18.08.2023	REJECTED
79.	DILIP KUMAR S/O TAPAS BAIDYA	A-70	389/2023	29.11.2022	18.08.2023	REJECTED
80.	SOURAV KAKRAN S/O ASHOK KASKRAN	A-313	649/2023	04.01.2023	18.08.2023	REJECTED
81.	DILIP BURMAN S/O MANINDER BURMAN	C-158	49/2022	21.11.2022	22.08.2023	REJECTED
82.	NONI BURMAN S/O DILIP BURMAN	C-158	50/2023	21.11.2022	22.08.2023	REJECTED
83.	DEEPAK BURMAN S/O DILIP	C-158	51/2022	21.11.2022	22.08.2023	REJECTED
84.	PRADEEP S/O ASHOK	A-350	469/2023	30.11.2022	22.08.2023	REJECTED
85.	SUNITA W/O SHYAMBIR SINGH	A-375	646/2023	02.01.2023	22.08.2023	REJECTED
86.	PAWAN DAS S/O CHHATU DAS	B-394/1	430/2023	29.11.2022	23.08.2023	REJECTED
87.	ANUP PANDAY S/O RAM SURAT PANDAY	A-52	553/2023	06.12.2022	23.08.2023	REJECTED
88.	NEELAM DEVI D/O RAM SURAT PANDAY	A-52	579/2023	07.12.2022	23.08.2023	REJECTED
89.	RACHNA DEVI W/O ANIL D/O RAM SURAT PANDAY	A-52	580/2023	07.12.2022	23.08.2023	REJECTED
90.	KARAN S/O BRIJ LAL	B-33	632/2023	26.12.2022	23.08.2023	REJECTED
91.	HARI DAS S/O SUDHANSHU SARKAR	B-171	338/2023	28.11.2022	24.08.2023	REJECTED
92.	MITHUL GHOSH S/O GOPAL GHOSH	C-221	358/2023	29.11.2022	24.08.2023	**ALLOWED**

93.	BEENA ROY W/O PALLAB ROY	B-106	376/2023	29.11.2022	24.08.2023	REJECTED
94.	RAVI S/O VIRENDER NATH	R-34/C	513/2023	02.12.2022	24.08.2023	REJECTED
95.	KAMLESH GUPTA W/O PANKAJ GUPTA	B-276/1	586/2023	07.12.2022	24.08.2023	REJECTED
96.	SUBEDAR S/O MOTI RAM	B-691/1	625/2023	21.12.2022	24.08.2023	REJECTED
97.	RINA MANDAL W/O RAVI MANDAL	B-323	112/2022	22.11.2022	25.08.2023	REJECTED
98.	MIHIR S/O BHAJAN BISWAS	A-319	283/2023	25.11.2022	25.08.2023	REJECTED
99.	MAHADEV S/O BHAJAN BISWAS	A-319	405/2023	29.11.2022	25.08.2023	**ALLOWED**
100.	RAJA RAM S/O RAM LAL	A-144	587/2023	07.12.2022	25.08.2023	REJECTED
101.	POOJA D/O SATYANARAYAN	B-350	653/2023	10.01.2023	25.08.2023	REJECTED
102.	RAVI KUMAR S/O RADHEY SHYAM	B-455	695/2023	31.01.2023	25.08.2023	REJECTED
103.	SUKDEV MANDAL S/O GOUR MANDAL	A-220	142/2022	22.11.2022	28.08.2023	REJECTED
104.	DAL CHAND S/O SHYAM LAL	A-302	187/2022	23.11.2022	28.08.2023	REJECTED
105.	RAM CHET S/O KHAKANNU	C-559	206/2023	23.11.2022	28.08.2023	**ALLOWED**
106.	GOPAL HALDAR S/O KALLU HALDAR	B-174	235/2022	23.11.2022	28.08.2023	REJECTED
107.	BASMATI W/O KAMAL	C-559	344/2023	28.11.2022	28.08.2023	REJECTED
108.	FIRDOSH S/O AZIZ	B-81	417/2023	29.11.2022	28.08.2023	REJECTED
109.	AJAY S/O KANHAIYA	A-221	526/2023	02.12.2022	28.08.2023	REJECTED
110.	MANJU BARMAN W/O POLTOO BARMAN	A-287	591/2023	07.12.2022	28.08.2023	REJECTED
111.	SNEHA BURMAN D/O BHARAT BURMAN	B-204	673/2023	03.02.2023	28.08.2023	REJECTED
112.	RAHUL BURMAN S/O MANORANJAN BURMAN	B-452	681/2023	23.01.2023	28.08.2023	REJECTED
113.	SHUBHANTI DEVI W/O MANOJ KUMAR GUPTA	A-176	728/2023	21.11.2022	28.08.2023	REJECTED
114.	VIMLA NAGAR W/O DHARAM PAL SINGH NGAR	B-362	10/2022	17.11.2022	30.08.2023	REJECTED
115.	PAWAN S/O SOHAN LAL	B-64	145/2022	22.11.2022	30.08.2023	REJECTED
116.	GEETA DEVI W/O PREM PAL	B-207/1	195/2022	23.11.2022	30.08.2023	REJECTED

117.	SHIBHU SARKAR S/O KM SARKAR	B-407	313/2023	28.11.2022	30.08.2023	**ALLOWED**
118.	RINKY W/O SAMEER GAIN	B-226	387/2023	28.11.2022	30.08.2023	REJECTED
119.	BIBHA DAS W/O SUCHANDRA DAS	B-618	391/2023	29.11.2022	30.08.2023	REJECTED
120.	SHARMILA MANDAL W/O SANDIP KUMAR MANDAL	A-335	407/2023	29.11.2022	30.08.2023	REJECTED
121.	MANISHA DEVI W/O MUKESH	C-354	502/2023	01.12.2022	30.08.2023	REJECTED
122.	DILIP S/O ABNI BURMAN	A-285	520/2023	02.12.2022	30.08.2023	REJECTED
123.	PATAI RAM S/O HARI LAL	B-508	629/2023	26.12.2022	30.08.2023	REJECTED
124.	BABLU DEY S/O HARI KISHAN DEY	B-545	707/2023	06.02.2023	30.08.2023	REJECTED
125.	SHANKAR SARKAR S/O ANIL SARKAR	B-18	22/2022	21.11.2022	31.08.2023	REJECTED
126.	JOGENDER MANDAL S/O DIJABAR MANDAL	C-263	247/2023	24.11.2022	31.08.2023	**ALLOWED**
127.	RINTA SAROJ W/O DILIP KUMAR	A-166	346/2023	28.11.2022	31.08.2023	REJECTED
128.	HOSIYAR SINGH S/O BHAWAR SINGH	A-250	414/2023	29.11.2022	31.08.2023	REJECTED
129.	BABU LAL S/O ISHWAR LAL	B-314	468/2023	30.11.2022	31.08.2023	REJECTED
130.	DEVENDER SINGH S/O BHANWAR SINGH	A-250	495/2023	01.12.2022	31.08.2023	REJECTED
131.	SADHNA JHA W/O AJAY KUMAR JHA	B-84	497/2023	01.12.2022	31.08.2023	REJECTED
132.	DEEPAK BURMAN S/O AJIT BURMAN	A-314	521/2023	02.12.2022	31.08.2023	REJECTED
133.	PRADEEP PAIK S/O GOUR PAIK	A-367	543/2023	05.12.2022	31.08.2023	REJECTED
134.	PARVATI HALDAR W/O SANJIVAN HALDAR	B-112	569/2023	06.12.2022	31.08.2023	REJECTED
135.	SANGEETA RAI W/O BITTOO RAI	A-15	576/2023	06.12.2022	31.08.2023	REJECTED
136.	DOLI W/O VIPLAV MAJHI	A-211	612/2023	09.12.2022	31.08.2023	**DISMISSED**
137.	SANGEETA W/O RADHESHYAM	A-114	652/2023	09.01.2023	31.08.2023	REJECTED
138.	SUMIT SHARMA S/O BIDHU BHUSHAN SHARMA	B-422	639/2023	28.12.2022	31.08.2023	REJECTED
139.	SANJAY THAKUR S/O SH. KAILASH CHAND	A-296	654/2023	10.01.2023	31.08.2023	REJECTED
140.	HARI RAM BURMAN S/O RAVI BURMAN	B-391	702/2023	03.02.2023	31.08.2023	REJECTED

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 386 of 2023

Date of Institution: 29.11.2022

Date of Order: 01.08.2023

Present: Appellant/Claimant Dilip Gupta S/o Dinesh Gupta

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-417, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-417 was found to exist on the upper floor 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

1.8.2023 1/8/2023 1/8/2023

Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/37/36.1/1005 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 386 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 17.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-417 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DDA.

1.8.2023 1/8/2023 1/8/2023

7. The statement of the Appellant/Claimant, Dilip Gupta, has been recorded before us on 17.07.2023 wherein he has stated that his parents, Dinesh & Shaifali, are having three sons; Subhash, Niwas & Dilip and one daughter Dolly. All the children are married. Dolly is married with Jitu. Subhash is married with Khushboo and having two sons, Ansh & Anuj. Niwas is married with Jyotika and having two children, Kautilya & Amaira and they are living in Tughalakabad, Delhi. Dilip (Appellant/Claimant) is married with Deepa and having two children, Tanishka & Aryan.

8. The Appellant/Claimant has stated that his family is having two Jhuggis and both are bearing different numbers, namely Jhuggi No. C-417 and C-417/A.

Jhuggi No. C-417/A

9. The Appellant/Claimant has stated that the first Jhuggi is bearing Jhuggi No. C-417/A and it is a double storey Jhuggi. His brother Subhash along with his wife Khushboo and children is living on the ground floor of the Jhuggi No. C-417/A and regarding that DDA has made allotment in favour of Khushboo. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that his sister Dolly along with her family is living on the first floor of the said Jhuggi No. C-417/A and regarding that DDA has made allotment in favour of Dolly. These facts are not disputed by DDA.

Jhuggi No. -2, C-417

11. The Appellant/Claimant has stated that the second Jhuggis is bearing No. C-417 and it is a triple storey structure and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor. The Appellant/Claimant has stated that his parents, Dinesh & Shaifali, are living on the ground floor of the Jhuggi No. C-417 on the ground floor of the Jhuggi No. C-417 and regarding that DDA has made allotment in favour of his father Dinesh. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that he along with his wife Deepa & both the children, Tanishka & Aryan, is living on the first & second floors of the Jhuggi No. C-417. The Appellant/Claimant has claimed the allotment from DDA against the first & the second floors of the said Jhuggi No. C-417 (Jhuggi No. 2) but his claim has been

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rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 386 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

Videos Clips of Jhuggi No. C-417/A

13. DDA has furnished the survey records along with two video clips of Jhuggi No. C-417/A. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 17.07.2023 wherein the Appellant/Claimant has stated that the first video clip pertains to the ground floor of the Jhuggi No. C-417/A in which his sister-in-law, Khushboo W/o Subhash, is seen and further, her room & kitchen are also seen. In the second video clip his sister Dolly, is seen on the first floor of Jhuggi No. C-417/A and her room & kitchen are also seen.

Videos Clips of Jhuggi No. C-417

14. DDA has furnished the survey records along with three video clips of Jhuggi No. C-417. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 17.07.2023 wherein the Appellant/Claimant has stated that two video clips pertain to the ground floor of the Jhuggi No. C-417 in which his father Dinesh is seen and further, his room & kitchen are also seen. The third video clip pertains to the first floor in which the Appellant/Claimant is seen and further, his room & kitchen on the first floor is also seen. But there is no video clip of the second floor. It is pointed out that the video clip of the second floor of the second Jhuggi bearing No. C-417 was not prepared by the survey team of DDA but only the video of the first floor was prepared. However, there is nothing to disbelieve the statement of the Appellant/Claimant that the Jhuggi No. C-417 was a triple storey structure and he was living on the first & the second floors of the Jhuggi. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey Jhuggi No. C-417 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by his parents, Dinesh & Shaifali, whereas the first & second floors is used for residential purposes by the Appellant/ Claimant Dilip Gupta.

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15. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. C-417 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first & second floors of the said Jhuggi for residential purposes.

16. Now we shall first appraise the material placed on file to determine the eligibility on other parameters also 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 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 as per the policy guidelines issued by DDA.

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

18. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed 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 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. 385/37/36.1/1005 dated 07.11.2022.

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 :-**

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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.

<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.

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

20. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

21. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued

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before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

23. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

24. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

25. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1185537 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2013 (Annexure-I) and Voter List of the year 2019 (Annexure-J).

26. It is pointed out that the Voter ID Card No. ARE 1185537 (Annexure-A) has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 525 in the Voter List of the year 2013 (Annexure-I) and at Sl. No. 520 in the Voter List of the year 2019. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on

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the cut- off date of 01.01.2015 and his name also appears in the voter list of the year's 2013 & of the year of survey.

27. 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. C-417 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered his two Ration Cards (Annexure-G & Annexure-G/1). The old Ration Card (Annexure-G) has been issued in favour of his father Dinesh Gupta on 22.06.2002 and the name of the Appellant/Claimant has been mentioned therein. The new Ration Card (Annexure-G/1) has been issued in favour of his mother Shaifali on 30.10.2014 and the name of the Appellant/Claimant has also been mentioned therein. 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 Jhuggi No. C-417. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

28. The Appellant/Claimant has tendered the Voter ID Card No. ARE 2108123 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card of his wife Deepa Gupta and Electricity Bill (Annexure-H).

29. It is pointed out that the Voter ID Card No. ARE 2108123 (Annexure-D) of his wife Deepa Gupta has been issued on 13.04.2016, much after the cut off date of 01.01.2015. The Electricity Bill (Annexure-H) shows that the connection has been taken by his father Dinesh Gupta on 06.06.2008 on the ground floor of Jhuggi No. C-417 thereby showing that the Appellant/Claimant was not having an electricity connection on the first & second floors of the Jhuggi No. C-417 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because the abovementioned 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 separate Ration Card on the cut- off date of 01.01.2015. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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30. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut- off date of 01.01.2015. The documents, Annexure-A to Annexure-J, 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.

31. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut- off date of 01.01.2015 issued on the address of first floor of jhuggi No. C-417 regarding which he is seeking allotment from DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

32. 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. 385/37/36.1/1005 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 381 of 2023

Date of Institution: 29.11.2022

Date of Order: 01.08.2023

Present: Appellant/Claimant Manoj Majumdar S/o Subhash Majumdar

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-237, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-227 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/36/58.1/959 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by

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the same, the present Appeal No. 381 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 04.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-264 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 second floor as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Manoj Majumdar, has been recorded before us on 04.07.2023, wherein he has stated that his parents, Subhash & Shobha, are having two sons, Manoj & Sanjay. Subhash had expired in the year 1995. Sanjay is

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married with Dolly. Manoj (Appellant/Claimant) is married with Maya and having two children, Shantanu & Kavya.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. C-237 and it comprises of one room on each floor but the upper floor is not having access from the gali but pucca staircase has been constructed inside the room on the ground floor for going to the upper and accordingly the floors are single dwelling unit. This shows that the first floor of the Jhuggi No. C-237 is not separate & independent dwelling unit because it is not having an independent access from the gali. However, in order to reach the first floor, one has to use the pucca staircase, which has been constructed inside the room on the ground floor. Therefore, both the ground and the first floors of Jhuggi No. C-237 are not separate & independent dwelling units but both are part & parcel of one dwelling unit of his parents, Subhash & Shobha, on the ground floor bearing Jhuggi No. C-237 for all purposes.

10. Thus we have no hesitation in holding that the statement of the Appellant/Claimant accordingly shows that the first floor of the Jhuggi No. C-237 is not having any independent access from the gali but in order to reach the upper floor; one has to use the pucca staircase, which has been constructed inside the room on the ground floor. Therefore, the ground & the first floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. C-237 of parents, Subhash & Shobha, for all purposes.

11. The Appellant/Claimant has stated that his mother Sobha along with the family of her son Sanjay is living on the ground floor of Jhuggi No. C-237 and regarding that DDA has made allotment in favour of his mother Shobha. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that he along with his wife Maya and both the children, Shantanu & Kavya, is living on the first floor of Jhuggi No. C-237. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. C-237, but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 381 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

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13. DDA has furnished the survey record along with three video clips pertaining to Jhuggi No. C-237. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 04.07.2023 wherein the Appellant/Claimant has stated that first video clip pertains to the ground floor of Jhuggi No. C-237 in which his mother Shobha is seen and her room & kitchen are also seen and further, pucca staircase has been constructed inside the room on the ground floor and used for going to the upper floor is also seen. The next two video clips pertain to the first floor of the said Jhuggi No. C-237 in which the Appellant/Claimant Manoj is seen and further, his room & kitchen on the first floor are also seen and the roof is also seen of having made of asbestos sheets. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No.C-237 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by his parents, Subhash & Shobha, whereas the first floor is used for residential purposes by the Appellant/ Claimant but the first floor is not having independent access from the gali but in order to reach the upper floor; one has to use the pucca staircase, which has been constructed inside the room on the ground floor.

14. The admission of the Appellant/Claimant is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the time of survey and it shows that the first floor of the Jhuggis No. C-237 is not having any independent access from the gali but in order to reach the upper floor one has to use the pucca staircase, which has been constructed inside the room on the ground floor. Therefore, the ground and the first floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. C-237 of his parents, Subhash & Shobha, for all purposes.

15. Thereby keeping in view that the ground and the first floors of Jhuggi No. C-237 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. C-237 of his parents, Subhash & Shobha, for all purposes and DDA has already made allotment in favour of his mother, Shobha, regarding the said Jhuggi No. C-237. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of Shobha W/o Subhash, therefore, Manoj (Appellant/Claimant of Appeal No. 381 of 2023) is not entitled to seek second allotment from DDA against the first floor. But it

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seems that the Appellant/Claimant in collusion with other family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the Appellant/ Claimant cannot claim allotment against the first floor because it is part & parcel of single dwelling unit bearing Jhuggi No. C-237 of his mother Shobha W/o Subhash. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

16. 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 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 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 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 separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/36/58.1/959 dated 07.11.2022.

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:

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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.

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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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

20. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

21. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment

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against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

23. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

24. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

25. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1173574 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-I) and Voter List of the year 2019 (Annexure-J).

26. It is pointed out that Voter ID Card No. ARE 1173574 (Annexure-A) has been issued on 27.10.2008, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 1033 in the Voter List of the year 2014 (Annexure-I) and at Sl. No. 1111 in the Voter List of the year 2019 (Annexure-J). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a

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Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in the Voter List of the year's 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

27. 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. C-237 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-H), which has been issued in favour of his mother Shobha and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. 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. C-237 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

28. The Appellant/Claimant has tendered Voter ID Card No. ARE 1580893 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Maya and the Passbook of Bank of India (Annexure-G).

29. It is pointed out that Voter ID Card No. ARE 1580893 (Annexure-D) of his wife Maya has been issued on 12.10.2012. The Passbook of Bank of India (Annexure-G) shows that the Appellant/Claimant had opened the account on 04.09.2014. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these document does 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 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

30. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and further all the three floors of Jhuggi No. C-437 has also been found to be one dwelling unit bearing Jhuggi No. C-237 of Shobha W/o Subhash for all purposes and DDA has already made allotment in favour of Shobha (mother of the Appellant/Claimant) regarding the said Jhuggi No. C-237. Accordingly, two allotments against the same Jhuggi are not permissible as per the

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policy issued by the DDA. The documents, Annexure-A to Annexure-J, 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.

31. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 and further both the floors of Jhuggi No. C-237 has also been found to be part & parcel of one dwelling unit bearing Jhuggi No. C-237 of Shobha W/o Subhash for all purposes and DDA has already made allotment in favour of Shobha (mother of the Appellant/Claimant) regarding the said Jhuggi No. C-237 and accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

32. 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. 385/36/58.1/959 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

33. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 388 of 2023

Date of Institution: 29.11.2022

Date of Order: 01.08.2023

Present: Appellant/Claimant Sumitra Das W/o Sanjay Das D/o Noni Gopal

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-430, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-430 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/37/63.2/1020 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by

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the same, the present Appeal No. 388 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 18.07.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-430 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card not verified / / No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on 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 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Sumitra Das, has been recorded before us on 18.07.2023 wherein she has stated that her in-laws, Nimai Das & Savitri, are having two sons, Sanjay & Dilip. Nimai Das has expired on 10.10.2017. Dilip is unmarried.

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Sanjay was married with Sumitra (Appellant/Claimant) and they are having five children out of the wedlock, namely, Kajal, Kanika, Nitika, Manisha & Ajay. Sanjay had expired on 20.09.2022 and his Death Certificate is (Annexure-G).

9. The Appellant/Claimant has stated that her family is having triple storey Jhuggi No. C-430 and it comprises of one room on each floor and an iron ladder has been placed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that her mother-in-law, Savitri, along with her unmarried son Dilip is living on the ground & the first floors of the Jhuggi No. C-430 and regarding that DDA has made allotment in favour of her mother-in-law, Savitri. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that she along with her husband Sanjay (till his death on 10.10.2017) and five children, namely, Kajal, Kanika, Nitika, Manisha & Ajay is living on the second floor of Jhuggi No. C-430. The Appellant/Claimant has sought allotment from DDA against the second floor of the Jhuggi No. C-430 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 388 of 2023 before the Appellate Authority for redressal. 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.

12. DDA has furnished the survey records along with four video clips of Jhuggi No. C-430. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 18.07.2023 wherein the Appellant/Claimant has stated that the two video clips pertain to the ground floor of the Jhuggi No. C-430 in which her mother-in-law, Savitri, is seen and further, her room & kitchen are also seen. The other two video clips pertain to the second floor in which the Appellant/Claimant, Sumitra, is seen on the second floor of Jhuggi No. C-430 and further, her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a triple storey Jhuggi No C-430 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the ground floor & the first floor is used for residential purposes by her mother-in-law, Savitri and the second floor is used for residential purposes by the Appellant/ Claimant & her family.

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13. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No C-430, Bhoomiheen Camp is a pucca structure and the Appellant/Claimant and her family was using the second floor of the said Jhuggi for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including 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 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-N, 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. 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 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 he 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. 385/37/63.2/1020 dated 07.11.2022.

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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 is 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>**

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. It is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative allotment to the dweller living on the first floor also if they

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possess requisite documents. The condition contained in Part–B Para 10 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. 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.

21. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card 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: -

"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.

22. 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

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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 with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

23. 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) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

24. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming

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allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015

GIST OF THE POLICY

25. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

26. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further 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.

27. 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 claimed allotment against the second floor, which is not included in the definition of upper floor under Part–B Para 10 of the policy.

28. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey

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and whether she is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.

29. The Appellant/Claimant has tendered her Voter ID Card No. WGL 3239687 (Annexure-A), Aadhar Card (Annexure-B) & PAN Card (Annexure-C).

30. It is pointed out that the Voter ID Card No. WGL 3239687 (Annexure-A) has been issued on 14.11.2013 on the address of A-662, Gautampuri Phase-II, Delhi and not on the address of the Jhuggi No. C-430 regarding which the Appellant/Claimant is claiming allotment from DDA. Further the Appellant/Claimant has placed no Voter List on file. This is pertinent to point out that the Appellant/Claimant has categorically admitted that she does not have Voter ID Card issued on the address of the Jhuggi No. C-430 regarding which she is claiming allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/Claimant was not having Voter ID Card issued on the cut off date of 01.01.2015 on the address of the Jhuggi No. C-430 regarding which she is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 and 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. Accordingly, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

31. The Appellant/Claimant has admitted that she 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. C-430 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered three Ration Cards (Annexure-F, Annexure-M & Annexure-N). The old Ration Card (Annexure-N) has been issued on 02.03.2009 in favour of Geeta Devi, who is the grandmother of her husband, and the name of the husband of the Appellant/Claimant Sanjay has been mentioned along with the other family members. The second Ration Card (Annexure-M) has been issued on 27.07.2013 in favour of her father-in-law, Nimai Das, and the name of none of the family members is mentioned. The third Ration Card (Annexure-F) has been issued in favour of her mother-in-law Savitri and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. 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 second floor of

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the Jhuggi No. C-430 regarding which she 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

32. The Appellant/Claimant has tendered her Passbook of PNB (Annexure-D), Electricity Bill (Annexure-E), Aadhar Card of her husband Sanjay (Annexure-H) and Aadhar Cards of her children Kajal (Annexure-I), Kanika (Annexure-J), Nikita (Annexure-K) & Manisha (Annexure-L) respectively.

33. It is pointed out that the Passbook of PNB (Annexure-D) shows that the account has been opened by her on 16.09.2014. The Electricity Bill (Annexure-E) shows that the connection has been taken by her father-in-law, Nimai Das, on 30.05.2008 on the address of the ground floor of the Jhuggi No. C-430 thereby showing that the Appellant/Claimant was not having connection on the address of second floor of the Jhuggi No. C-430 regarding which the Appellant/Claimant is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these document do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

34. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of second floor of the Jhuggi No. C-430 regarding which she is claiming allotment from DDA and further she has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy. The documents, Annexure-A to Annexure-N, 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. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. C-430 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further she was not having the requisite mandatory document, i.e., a separate Ration

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Card, on the cutoff date of 01.01.2015. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

35. 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. 385/37/63.2/1020 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

36. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 392of 2023

Date of Institution: 29 11.2022

Date of Order: 01.08.2023

Present: Appellant/Claimant Geeta Devi W/o Mohan Lal

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-310, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-310 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/35.1/45//1111 dated

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07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 392 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 01.08.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-310 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant Geeta Devi has been recorded before us on 01.08.2023 wherein she has stated that her in-laws, Girija Devi & Bhairon Lal, are having two sons; Makhan Lal & Mohan Lal and one daughter, Gaumti. All the children are

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married. Gaumti is married with Sundar Lal and she is living in her matrimonial home in Dakshinpuri, Delhi. Makhan Lal is married with Maya Devi and having two children; Dheeraj & Aman. Geeta Devi (Appellant/Claimant) is married with Mohan Lal and having four daughters; Varsha, Nandini, Charu & Divya.

8. The Appellant/Claimant has stated that her family is having a double storey Jhuggi bearing No. A-310 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

9. The Appellant/Claimant has stated that her in-laws, Girija Devi & Bhairon Lal, along with family of their son Makhan Lal are living on the ground floor of the Jhuggi No. A -310 and regarding that DDA has made allotment in favour of her mother-in-law, Girija Devi. These facts are not disputed by DDA

10. The Appellant/Claimant has further stated that she along with her husband Mohan Lal and four daughters is living on the first floor of the Jhuggi No. A-310. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. A-310 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 392 of 2023 before the Appellate Authority for redressal. DDA has furnished the survey record along with two video clips pertaining to Jhuggi No. A-310.

11. DDA has furnished the survey records along with two video clip of Jhuggi No. A-310. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 01.08.2023 wherein she has stated that the first video clip pertains to the ground floor of Jhuggi No. A-310 in which her in-laws, Girija Devi & Bhairon Lal, are seen and their room & kitchen are also seen. The second video clip pertains to the first floor of the Jhuggi No. A-310 in which the Appellant/Claimant, Geeta Devi, is seen along with her husband Bhairon Lal & children and her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No.A-310 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the ground floor has been used for residential purposes by her in-laws, Girija Devi & Bhairo lal, along with the family of their son Makhan Lal whereas the first floor is used for residential purposes by Geeta Devi (Appellant/ Claimant of Appeal No. 392 of 2023).

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12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-310 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

13. 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 he is entitled to claim allotment against the first floor 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-P, 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 separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/45/35.1/1111 dated 07.11.2022.

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.
- 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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

17. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18. As already pointed out above, condition contained in Part–B Para 10 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."

19. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

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GIST OF THE POLICY

20. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

21. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

22. The Appellant/Claimant has tendered her Voter ID Card No. ARE 1130400 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter List of the year 2013 (Annexure-P).

23. It is pointed out that the Voter ID Card No. ARE 1130400 (Annexure-A) has been issued on 27.10.2008, much prior to the cut off date 01.01.2015. Further, the name of the Appellant/Claimant appears at Sl. No. 953 in the Voter List of the year 2013 (Annexure-P). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in the Voter List of the year's 2013.

24. 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. A-310 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered joint Ration Card (Annexure-F), which has been issued in the name of her mother Shanti Devi and the name of the family members including that of the present Appellant/Claimant is mentioned but the date of issuance is not mentioned. The fact

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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. A-228 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

25. The Appellant/Claimant has tendered two Ration Cards (Annexure-M & Annexure-O) and an Application for issuance of new Ration Card (Annexure-N). It is pointed out that the Old Ration Card (Annexure-M) has been issued in February 2009 in the name of her father-in-law Bhairav Lal and the name of her husband Mohan Lal has been mentioned but the name of the Appellant/Claimant is not mentioned. The Application for issuance of Ration Card (Annexure-N) was submitted by the Appellant/Claimant for issuance of Ration Card on 02.12.2013 and accordingly the New Ration Card (Annexure-O) was issued in the name of the Appellant/Claimant, in which the name of her husband and the four daughters have been mentioned, and it was issued on 02.07.2019, much after the cut-off date of 01.01.2015. The fact remains that bare submission of application on 02.12.2013 for issuance of Ration Card does not make the Appellant/Claimant eligible for allotment because the policy guidelines requires that the dwellers seeking allotment against the first floor must have a Ration Card on the cut-off date of 01.01.2015. 32. Therefore we have no hesitation in holding that the Appellant/Claimant does not fulfil the eligibility criteria as per guidelines issued by DDA. which make separate Ration Card a mandatory document for the upper floor. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-P, 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 separate Ration Card on the cutoff date of 01.01.2015 in spite of the fact that she is claiming allotment against the upper floor.

26. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1139864 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of her husband Mohan Lal as well as the Electricity Bill (Annexure-G), Aadhar Cards of her daughters Divya, Nandini, Varsha & Charu (Annexure-H to Annexure-K respectively) & Passbook of PNB (Annexure-L).

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27. It is pointed out that the Voter ID Card No. ARE 1139864 (Annexure-D) of her husband Mohan Lal has been issued on 27.10.2008, much prior to the cutoff date of 01.01.2015. The Electricity Bill (Annexure-G) shows that the connection has been taken in the name of the Appellant/Claimant on the address of First Floor of the Jhuggi No. A-310 on 16.05.2017, much after the cutoff date of 01.01.2015. The Passbook of PNB (Annexure-L) shows that the account has been opened by the Appellant/Claimant on 12.12.2009, much prior to the cut off date of 01.01.2015. It is pointed out that the above-mentioned document is 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 separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

28. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-P, 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 separate Ration Card on the cut off date of 01.01.2015 in spite of the fact that he is claiming allotment against the upper floor.

29. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-310 regarding which she is claiming allotment from DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

30. 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. 385/45/35.1/1111 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 534 of 2023

Date of Institution: 05.12.2022

Date of Order: 01.08.2023

Present: Appellant/Claimant Niti Biswas W/o Nibin D/o Narayan Biswas

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-180, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-180 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/26/92.1/865 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the

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same, the present Appeal No. 534 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 06.07.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-180 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on 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 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Niti Biswas, has been recorded before us on 06.07.2023, wherein she has stated that her parents, Narayan Biswas & Reena, are having one son Dipankar and two daughters, Jyoti & Niti Biswas. Narayan Biswas had expired in

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the year 1988. Jyoti and Dipankar are unmarried and Dipankar is living in Bangaluru. Niti (Appellant/Claimant) is married with Nibin and the couple is not having any child.

9. The Appellant/Claimant has stated that her parents are having a double storey Jhuggi No. C-180, and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that her mother Reena along with her unmarried daughter Jyoti is living on the ground floor of Jhuggi No. C-180 and regarding that DDA has made allotment in favour of her mother Reena. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that she along with her husband Nibin is living on the first floor of Jhuggi No. C-180. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. C-180 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 534 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-N, in support of her claim and prayed that DDA be directed to make allotment in her favour.

12. DDA has furnished the survey record along with three video clips pertaining to Jhuggi No. C-180.The video clips were played before the Appellant/Claimant when her statement was recorded before us on 06.07.2023 in which the Appellant/Claimant has stated that two video clip pertains to the ground floor of Jhuggi No. C-180, in which her mother Reena is seen and further, her room & kitchen are also seen and one video clip pertains to the first floor of the Jhuggi No. C-180, in which a pucca staircase is going from ground floor to the upper floor is seen and further, the Appellant/Claimant is seen on the first floor of Jhuggi No. C-180, and her room & kitchen are also seen. 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-180 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-180 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with her family is using the first floor of the said Jhuggi for residential purposes.

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14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including 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 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-N, in support of her claim and prayed that DDA be directed to make allotment in his favour.

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but 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 he 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. 385/26/92.1/865 dated 07.11.2022.

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.

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

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

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

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21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

23. The Appellant/Claimant has tendered her Voter ID Card No. ARE 1171966 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-M) and Voter List of the year 2019 (Annexure-N).

24. It is pointed out that Voter ID Card No. ARE 1171966 (Annexure-A), has been issued on 24.04.2010, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 840 in the Voter List of the year 2014 (Annexure-M) and at Sl. No. 898 in the Voter List of the year 2019 (Annexure-N). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in the Voter List of the year's 2014 & of the year of survey.

25. The Appellant/Claimant has admitted that she 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. C-180 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-J), which has been issued in favour of her mother Reena on 01.06.2007, and the name of the Appellant/Claimant has been mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff

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date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-180 regarding which she 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

26. The Appellant/Claimant has tendered Aadhar Card (Annexure-D) of her husband Nibin, Employment Certificate (Annexure-E), Certificate issued by Delhi University (Annexure-F), Mark sheet (Annexure-G), the Passbook of SBI (Annexure-I), Voter ID Card No. KND 1604438 (Annexure-K) of her husband Nibin and the Electricity Bill (Annexure-L).

27. It is pointed out that the Employment Certificate Registration (Annexure-E) of the Appellant/Claimant has been issued on 29.06.2012 and the Certificate of Delhi University (Annexure-F) has been issued on 16.07.2007. The Passbook of SBI (Annexure-I) shows that the Appellant/Claimant had opened the account on 16.01.2015. The Voter ID Card No. KND 1604438 (Annexure-K) of her husband has been issued on 20.10.2008 but it has been issued on some other address and not on the address of Jhuggi No. C-180 regarding which she is claiming allotment from DDA and accordingly the same is not relevant. The Electricity Bill (Annexure-L) shows that the electricity connection has been taken by her mother Reena on 12.06.2008 on the address of the ground floor of the Jhuggi No. C-180. Thereby, showing that the Appellant/Claimant was not having connection on the first floor of the Jhuggi No. C-180 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 document do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

28. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-N, 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 separate Ration Card on the cut off date of 01.01.2015 in spite of the fact that she is claiming allotment against the upper floor.

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29. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-180 regarding which she is claiming allotment from DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

30. 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. 385/26/92.1/865 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 565 of 2023

Date of Institution: 06.12.2022

Date of Order: 01.08.2023

Present: Appellant/Claimant Manoj Sarkar S/o Vipul Sarkar

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-22, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-22 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/59/33.1/1171 dated

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07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 565 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 07.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-222 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Manoj Sarkar, has been recorded before us on 07.07.2023, wherein he has stated that his parents, Vipul Sarkar & Maya, are having two sons, Manoj & Vishnu. Vishnu is married with Parwati and having one daughter, Vaishali.

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Manoj Sarkar (Appellant/Claimant) is married with Beauty and having two children, Aditya & Somijeet.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. C-22 and it comprises of one room on each floor and a pucca staircase has been constructed inside the room on the ground floor for going to the upper floor. This shows that the first floor of the Jhuggi No. C-22 is not separate & independent dwelling unit because it is not having an independent access from the gali. However, in order to reach the first floor, one has to use the pucca staircase, which has been constructed inside the room on the ground floor. Therefore, both the ground and the first floors of Jhuggi No. C-22 are not separate & independent dwelling units but both are part & parcel of one dwelling unit of his parents, Vipul Sarkar & Maya, on the ground floor bearing Jhuggi No. C-22 for all purposes.

10. Thus we have no hesitation in holding that the statement of the Appellant/Claimant accordingly shows that the first floor of the Jhuggi No. C-22 is not having any independent access from the gali but in order to reach the upper floor; one has to use the pucca staircase, which has been constructed inside the room on the ground floor. Therefore, the ground & the first floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. C-22 of parents, Vipul Sarkar & Maya, for all purposes.

11. The Appellant/Claimant has stated that his parents, Vipul Sarkar & Maya, along with the family of their son Vishnu is living on the ground floor of Jhuggi No. C-22 and regarding that DDA has made allotment in favour of his father, Vipul Sarkar. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that he along with his wife Beauty and children, Aditya & Somijeet, is living on the first floor of Jhuggi No. C-22. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. C-22, but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 565 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-I, in support of his claim and prayed that DDA be directed to make allotment in his favour.

13. DDA has furnished the survey record along with four video clips pertaining to Jhuggi No. C-22. The video clips were played before the Appellant/Claimant when his statement was

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recorded before us on 07.07.2023 wherein the Appellant/Claimant has stated that three video clips pertain to the ground floor of Jhuggi No. C-22 in which his mother Maya is seen and her room & kitchen are also seen and further the Jhuggi is clearly seen to be double storey structure. The next video clip pertains to the first floor of the said Jhuggi No. C-22 in which the Appellant/Claimant Manoj is seen and further, his room & kitchen on the first floor are also seen and further pucca staircase, which has been constructed inside the room on the ground floor and used for going to the upper floor is also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No.C-22 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by his parents, Vipul Sarkar & Maya, whereas the first floor is used for residential purposes by the Appellant/ Claimant but the first floor is not having independent access from the gali but in order to reach the upper floor; one has to use the pucca staircase, which has been constructed inside the room on the ground floor.

14. The admission of the Appellant/Claimant is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the time of survey and it shows that the first floor of the Jhuggis No. C-22 is not having any independent access from the gali but in order to reach the upper floor one has to use the pucca staircase, which has been constructed inside the room on the ground floor. Therefore, the ground and the first floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. C-22 of his parents, Vipul Sarkar & Maya, for all purposes.

15. Thereby keeping in view that the ground and the first floors of Jhuggi No. C-22 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. C-22 of his parents, Vipul Sarkar & Maya, for all purposes and DDA has already made allotment in favour of his father, Vipul Sarkar, regarding the said Jhuggi No. C-22. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of his father Vipul Sarkar, therefore, Manoj (Appellant/Claimant of Appeal No. 565 of 2023) is not entitled to seek second allotment from DDA against the first floor. But it seems that the Appellant/Claimant in collusion with other family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the Appellant/ Claimant cannot claim allotment against the first floor because it is part & parcel of single dwelling unit bearing Jhuggi No. C-22 of his father

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

16. 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 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 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 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 separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/59/33.1/1171 dated 07.11.2022.

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.

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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.
- 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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

20. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

21. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

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GIST OF THE POLICY

23. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

24. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

25. The Appellant/Claimant has tendered his Voter ID Card No. CXY 1081793 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-H) and Voter List of the year 2019 (Annexure-I).

26. It is pointed out that the Voter ID Card No. CXY 1081793 (Annexure-A) has been issued on 09.03.2002, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 228 in the Voter List of the year 2014 (Annexure-H) and at Sl. No. 281 in the Voter List of the year 2019 (Annexure-I). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in the Voter List of the year's 2014 & of the year of survey.

27. 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. C-22 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-G), which has been issued in favour of his mother Maya and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. The fact

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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. C-22 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

28. The Appellant/Claimant has tendered his Driving License (Annexure-D), Voter ID Card No. MTK 3169273 (Annexure-E) of his wife Beauty and Birth Certificate of his son Jayaditya (Annexure-F).

29. It is pointed out that the Driving License (Annexure-D) has been issued on 31.01.2006. The Voter ID Card No. MTK 3169273 (Annexure-E) of his wife Beauty has been issued on 01.01.2007. It is pointed out that Voter ID Card (Annexure-E) and (Annexure-F) have issued on the address of West Bengal and have not been issued on the address of Jhuggi No. C-22 regarding which the Appellant/Claimant is claiming allotment from DDA and accordingly these documents are not relevant. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these document does 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 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

30. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and further both the floors of Jhuggi No. C-22 has also been found to be one dwelling unit bearing Jhuggi No. C-22 of Maya W/o Vipul Sarkar for all purposes and DDA has already made allotment in favour of Maya (mother of the Appellant/Claimant) regarding the said Jhuggi No. C-22. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. The documents, Annexure-A to Annexure-I, 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.

31. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of

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01.01.2015 and further both the floors of Jhuggi No. C-22 has also been found to be part & parcel of one dwelling unit bearing Jhuggi No. C-22 of his parents, Vipul Sarkar & Maya for all purposes and DDA has already made allotment in favour of Vipul Sarkar (father of the Appellant/Claimant) regarding the said Jhuggi No. C-22 and accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

32. 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. 385/59/33.1/1171 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

33. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 682 of 2023

Date of Institution: 24.01.2023

Date of Order: 01.08.2023

Present: Appellant/Claimant Mohd. Sehjad S/o Mohd. Kalim

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-342, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-342 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/9/8.1/1677

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dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 682 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 19.07.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-342 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Mohd. Sehjad, has been recorded before us on 19.07.2023 wherein he has stated that his parents, Mohd. Kalim & Samina Khan, are

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having two sons; Mohd. Sehjad & Mohd. Naushad and two daughters Sabina & Ravina. Samina Khan had expired in the year 2020. All the children are married. Sabina Khatun is married with Tabrez and she is living in her matrimonial home in Navjeevan Camp, Delhi. Ravina is married with Mohd. Munna and she is living in her matrimonial home in Bihar. Mohd. Naushad is married with Nasra. Mohd. Sehjad (Appellant/Claimant) is married with Sahin and having two sons; Ahil & Atif.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. C-342 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor. The Appellant/Claimant has stated that his parents, Mohd. Kalim & Samina Khan (until her death in 2020) along with the family of their son Mohd. Naushad are living on the ground floor of the Jhuggi No. C-342 and regarding that DDA has made allotment in favour of his father Mohd. Kalim. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that he along with his wife Sahin and both the sons, Ahil & Atif, is living on the first floor of the Jhuggi No. C-342. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. C-342 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 682 of 2023 before the Appellate Authority for redressal. 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.

10. DDA has furnished the survey records along with one video clip of Jhuggi No. C-342. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 19.07.2023 wherein the Appellant/Claimant has stated that the video clip pertains to the ground floor of the Jhuggi No. C-342 in which his father Mohd. Kalim is seen and further, his room & kitchen are also seen. There is no video clip of the first floor. The Appellant/Claimant has stated that he had not got the survey conducted of the first floor of the Jhuggi No. C-342 regarding which he is claiming allotment from DDA. This creates dent in the story put forward by the Appellant/Claimant because had he been living separately and independently on the first floor of the Jhuggi No. C-342 then he would have certainly got the survey

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conducted. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the Appellant/ Claimant was not living separately & independently on the first floor of the Jhuggi No. C-342 regarding which he is seeking allotment from 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.

11. Now we shall first appraise the material placed on file to determine the eligibility on other parameters also 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 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 as per the policy guidelines issued by DDA.

12. 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

13. 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 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. 385/9/8.1/1677 dated 07.11.2022.

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

> **"Part-B**
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
> 10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
> 11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.
>
> **As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:**
>
> - 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.

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- 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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

15. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

16. As already pointed out above, condition contained in Part–B Para 10 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."

17. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is

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

GIST OF THE POLICY

18. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

19. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

20. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1183755 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2009 (Annexure-K), Voter List of the year 2014 (Annexure-L) and Voter List of the year 2019 (Annexure-M).

21. It is pointed out that the Voter ID Card No. ARE 1183755 (Annexure-A) has been issued on 21.01.2013. The name of the Appellant/Claimant appears at Sl. No. 323 in the Voter List of the year 2009 (Annexure-K), at Sl. No. 325 in the Voter List of the year 2014 (Annexure-L) and at Sl. No. 345 in the Voter List of the year 2019 (Annexure-M). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in the voter list of the year's 2009, 2014 & of the year of survey.

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22. 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. C-342 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the Ration Card (Annexure-J), which has been issued in favour of his mother Samina Khan on 31.05.2014 and the name of the Appellant/Claimant has also been mentioned. 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 Jhuggi No. C-342. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

23. The Appellant/Claimant has tendered the Voter ID Card No. ARE 2252130 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Sahin Khatoon as well as the Passbook of Bandhan Bank (Annexure-G), Electricity Bill (Annexure-H), Passport of the Appellant/Claimant (Annexure-I), Aadhar Cards of his children Ahil (Annexure-N) & Atif (Annexure-O).

24. It is pointed out that the Voter ID Card No. ARE 2252130 (Annexure-D) of his wife Sahin Khatoon has been issued on 27.03.2019, much after the cut off date of 01.01.2015. The Passbook of Bandhan Bank (Annexure-G) shows that the account by the Appellant/Claimant has been opened on 10.03.2018, much after the cut off date of 01.01.2015. The Electricity Bill (Annexure-H) shows that the connection has been taken by his father Mohd. Kalim on 24.06.2008 on the address of ground floor of the Jhuggi No. C-342 thereby showing that the Appellant/Claimant was not having an electricity connection on the address of first floor of the Jhuggi No. C-342 regarding which he has claimed allotment from DDA. The Passport of the Appellant/Claimant (Annexure-I) had been issued on 01.04.2022, 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 the abovementioned 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 separate Ration Card on the cut- off date of 01.01.2015. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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25. The material placed on file shows that the Appellant/ Claimant was not living separately & independently on the first floor of the Jhuggi No. C-342 regarding which he is seeking allotment from DDA and further the Appellant/ Claimant was not having a separate Ration Card on the cut- off date of 01.01.2015. The documents, Annexure-A to Annexure-O, 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.

26. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not living separately & independently on the first floor of the Jhuggi No. C-342 regarding which he is seeking allotment from DDA and further the Appellant/ Claimant was not having a separate Ration Card on the cut- off date of 01.01.2015 issued on the address of first floor of jhuggi No. C-342 regarding which he is seeking allotment from DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

27. 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. 385/9/8.1/1677 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

28. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 267 of 2022

Date of Institution: 24.11.2022

Date of Order: 02.08.2023

Present: Appellant/ Claimant Poonam Devi W/o Ranjit Paswan

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 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. B-5, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-5 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/7/107.G/1653 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved

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by the same, the present Appeal No. 267 of 2022 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 03.07.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-5 was found to exist but she had failed to submit required documents, i.e., Voter ID Card 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 07.11.2022 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.

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 ground floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Poonam Devi, has been recorded before us on 03.07.2023, wherein she has stated that her in-laws, Manohar Lal Paswan & Rajwati, are having three sons, Ranjit, Sanjay & Uday. Both her in-laws had expired

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about twenty years ago. Uday had died unmarried and issueless. Sanjay is married with Punita and having five children. Ranjit is married with Poonam (Appellant/Claimant) and having one son Prince. Ranjit had expired on 25.02.2022 and the Death Certificate of Ranjit is Annexure-H.

8. The Appellant/Claimant has stated that her family is having two adjoining Jhuggis bearing Jhuggi No. B-5 & Jhuggi No. B-5A. Both the Jhuggis are single storey Jhuggi and having one room each.

9. The Appellant/Claimant has stated that Sanjay along with his wife Punita and children is living in Jhuggi No. B-5A and regarding that DDA has made allotment in favour of Punita. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that she along with her husband Ranjit (up till his death on 25.02.2022) and son Prince is living in the second Jhuggi No. B-5. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi No. B-5 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 267 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-M, and prayed that DDA be directed to make allotment in her favour.

11. DDA has furnished the survey record along with three video clips pertaining to Jhuggi No. B-5. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 03.07.2023 wherein the Appellant/Claimant has stated that all the video clips pertain to the Jhuggi No. B-5, in which the Appellant/Claimant with her husband Ranjit is seen and further, her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a single storey Jhuggi No. B-5 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was using the said Jhuggi for residential purposes.

12. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. B-5 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with her family is using the said Jhuggi for residential purposes.

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13. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 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. B-5, Bhoomiheen Camp 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-M, 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**
> **<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."

16. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18

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years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and 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.

17. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the single storey Jhuggi No. B-5, Bhoomiheen Camp as per the policy guidelines issued by DDA.

18. The Appellant/Claimant has tendered Voter ID Card No. ARE2080372 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter List of the year 2019 (Annexure-N).

19. It is pointed out that the Voter ID Card No. ARE 2080372 (Annexure-A) has been issued on 26.11.2015, much after the cut off date 01.01.2015 and accordingly the question of the name of the Appellant/Claimant appearing in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) does not arise. The Appellant/Claimant has tendered Voter List of the year 2019 (Annexure-N) in which the name of the Appellant/Claimant appears at Sl. No. 10 and the number of her Voter ID Card has been mentioned to be ARE 2080372, thereby, showing that her name appears only in the in the year of survey but neither she was having a Voter ID Card on the cut off date of 01.01.2015 nor her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

20. The Appellant/Claimant has tendered Voter ID Card No. DL/03/035/243647 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of her husband Ranjit and the Electricity Bill (Annexure-G), Passbook of PNB (Annexure-I), Ration

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Cards (Annexure-J & Annexure-K), Voter List of the year 2012 (Annexure-L) & Voter List of the year 2019 (Annexure-M) of her husband Ranjit.

21. It is pointed out that Voter ID Card No. DL/03/035/243647 (Annexure-D) has been issued on 24.02.1997 and the name of her husband Ranjit appears at Sl. No. 10 in the Voter List of the year 2012 (Annexure-L) and at Sl. No. 10 in the Voter List of the year 2019 (Annexure-M) but in both the Voter List the number of the Voter ID Card has mentioned to be ARE 1141807 but this Voter ID Card No. ARE 1141807 has not been placed on file by the Appellant/Claimant. The Electricity Bill (Annexure-G) shows that the connection has been taken by her husband Ranjit on 19.06.2008. The Passbook of PNB (Annexure-I) shows that the Appellant/Claimant has opened the account on 24.02.2016, much after the cutoff date 01.01.2015. The Appellant/Claimant has tendered two Ration Cards (Annexure-J & Annexure-K). The old Ration Card (Annexure-J) has been issued in the name of her father-in-law, Manohar Lal Paswan, on 11.03.2005 but the name of the Appellant/Claimant is not mentioned. The new Ration Card (Annexure-K) has been issued in favour of the Appellant/Claimant on 29.01.2018, much after the cutoff date 01.01.2015 and in that ration card only the name of her husband Ranjit is mentioned and that of her son Prince 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 cut off date of 01.01.2015 and her name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015).

22. The material placed on file shows that the Appellant/Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). The documents, Annexure-A to Annexure-J, 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

23. The Appellant/ Claimant has made misrepresentation and also futile attempt to

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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. 385/7/107.G/1653 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

(Ranbir Singh) 21/8/2023	**(Satish Ahlawat)** 21/8/2023	**(Rachna Tiwary)** 21/8/2023
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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 421 of 2023

Date of Institution: 29.11.2022

Date of Order: 02.08.2023

Present: Appellant/Claimant Pankaj S/o Rajveer Singh @ Rajbir Singh

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-549, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, it was found that the Appellant/Claimant is residing in Jhuggi No. C-548, Bhoomiheen Camp, Kalkaji along with his father, Rajbir Singh, who has got the survey conducted in his name against the said Jhuggi No. C-548 and his name has already been considered for alternative allotment. The Appellant/Claimant has got the survey conducted against Jhuggi No. C-549, Bhoomiheen Camp, Kalkaji but he had submitted requisite documents in respect of Jhuggi No. C-548, Bhoomiheen Camp, Kalkaji. The Jhuggi No. C-

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548 belongs to Kamla Devi, who has already expired and the Appellant/Claimant has submitted unregistered will declaring him owner of the Jhuggi No. C-549 after the death of Kamla Devi. The Appellant/Claimant was found to be suppressing material facts in order to claim allotment against Jhuggi No. C-549 of Kamla (since deceased) whereas he has submitted documents issued on the address of Jhuggi No. C-548 of his parents. The Appellant/Claimant 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/63/058.G/1380 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 421 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 26.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-549 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc., on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be "**Applicant failed to submit requisite documents**" and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine the eligibility on all the parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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-549 as per the policy guidelines issued by DDA.

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

9. 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."

10. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and 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.

11. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled

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to claim allotment against the Jhuggi No. B-171 as per the policy guidelines issued by DDA.

12. It is not disputed that the present appeal involves about the dispute with regard to claim for alternative claim against the single storey Jhuggi No. C-549, Bhoomiheen Camp, Kalkaji, which belonged to Kamla W/o Sewa Ram. But the Appellant/ Claimant himself is not clear as to whether he is claiming allotment in his individual capacity or as legal heir of Kamla W/o Sewa Ram (since deceased) under will dated 26.07.2026. If he is claiming allotment in his individual capacity then he has to show that he fulfill the eligibility criteria as per the policy guidelines issued by DDA and possess all the requisite documents on the cutoff date of 01.01.2015. But in case he is claiming allotment in the capacity of legal heir of Kamla (since deceased) under will dated 26.07.2026 then in that eventuality he has to show that the said Kamla W/o Sewa Ram fulfill the eligibility criteria as per the policy guidelines issued by DDA and possess all the requisite documents on the cutoff date of 01.01.2015 and further she had executed the impugned will dated 26.07.2026 in favour of the Appellant/ Claimant out of love & affection and while in disposing state of mind & health.

13. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make allotment in his favour. But the material placed on file shows that neither the Appellant/ Claimant nor the said Kamla W/o Sewa Ram fulfill the eligibility criteria as per the policy guidelines issued by DDA and possess all the requisite documents on the cutoff date of 01.01.2015 as per our detailed discussion herein below.

14. The statement of the Appellant/Claimant, Pankaj, has been recorded before us on 26.07.2023 wherein he has stated that his parents, Rajveer Singh & Har Devi, are having two sons, Prabhakar & Pankaj and one daughter, Chanchal. Har Devi had expired in the year 2001. Chanchal is married with Sunil and she is living in her matrimonial home in Khanpur, Delhi. Both Pankaj & Prabhakar are unmarried and their respective date of birth is 06.07.1995 and 10.10.1999.

JHUGGI NO. C-548

15. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. C-548 and it comprises of one room on each floor. DDA has made allotment in favour of

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his father Rajveer Singh @ Rajbir Singh against the ground floor of Jhuggi No. C-548. These facts are not disputed by DDA.

16. The Appellant/Claimant has stated that Hari Singh is real brother of his father Rajveer Singh. His cousin Prem Pal Singh S/o Hari Singh has also sought allotment from DDA against the first floor of the said Jhuggi No. C-548 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the Appeal No. 204 of 2023 before the Appellate Authority for redressal. But that appeal has been rejected by the Appellate Authority on 13.06.2023. These facts are not disputed by DDA.

JHUGGI NO. C-549

17. The Appellant/Claimant has stated that adjoining to the Jhuggi No. C-548 of his parents there was another single storey Jhuggi No. C-549 in which one Kamla W/o Sewa Ram was living. The said Kamla was not related to the family of the Appellant/Claimant. But Kamla had taken care of the Appellant/Claimant and his siblings after the death of his mother, Har Devi in the year 2001. Kamla W/o Sewa Ram out of love & affection had executed a Will dated 26.07.2016 (Annexure-G) in favour of the present Appellant/Claimant in respect of Jhuggi No. C-549. This Will is unregistered and the Appellant/Claimant has also not obtained probate of the same. The Appellant/Claimant has inherited the Jhuggi No. C-549 of Kamla under the Will dated 26.07.2016 (Annexure-G). The Appellant/Claimant has sought allotment from DDA against the said Jhuggi No. C-549 of Kamla W/o Sewa Ram (since deceased) under the will dated 26.07.2016 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 421 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-I, in support of his claim and prayed that DDA be directed to make allotment in his favour.

18. DDA has furnished the survey record along with video clips pertaining to both the Jhuggis bearing Jhuggi No. C-548 and Jhuggi No. C-549. In the video clips pertaining to Jhuggi No. C-548 Rajveer Singh @ Rajbir Singh (father of the Appellant/Claimant) is seen on the ground floor of Jhuggi No. C-548 and Prem Pal Singh (cousin of the

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Appellant/Claimant) is seen on the first floor of Jhuggi No. C-548. Whereas the present Appellant/Claimant is seen in the single storey Jhuggi No. C-549 of Kamla W/o Sewa Ram.

19. The material placed on file shows that Rajveer Singh @ Rajbir Singh and Hari Singh are real brothers and they are having a double storey Jhuggi No. C-548. The family of the Rajveer Singh is living on the ground floor whereas the family of Hari Singh is living on the first floor of the said double storey Jhuggi No. C-54. Two claims were filed against the said Jhuggi No. C-548 by two claimants, namely, Rajveer Singh and Prem Pal Singh. Rajveer Singh is the father of the Appellant/Claimant and Prem Pal Singh, is the cousin of the Appellant/Claimant. DDA has made allotment in favour of his father Rajveer Singh against the ground floor of Jhuggi No. C-548. Whereas the claim of his cousin Prem Pal Singh S/o Hari Singh against the first floor of the said Jhuggi No. C-548 has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the Appeal No. 204 of 2023 before the Appellate Authority for redressal but that appeal has been rejected by the Appellate Authority on 13.06.2023. This shows that one of the claim filed by the family member of the present Appellant/Claimant has been found to be wrong & false and accordingly the same was rejected by the EDC as well as by this Appellate Authority. However, in order to maximize allotments from DDA the present Appellant/Claimant has also sought allotment against Jhuggi No. C-549 of Kamla W/o Sewa Ram (since deceased) thereby alleging that she had executed will dated 26.07.2016 in his favour.

20. The material placed on file also shows that Rajveer Singh is having two unmarried sons, Prabhakar & Pankaj (Appellant/Claimant). The present Appellant/Claimant has sought allotment from DDA against the Jhuggi No. C-549 of Kamla under Will dated 26.07.2016 (Annexure-G). This Jhuggi No. C-549 of Kamla is situated adjoining to the double storey Jhuggi No. C-548 of the family of the present Appellant/Claimant. There is no doubt that the will need not be registered or executed on stamp paper but it is to seen whether it was duly executed by the person while in disposing mind & health.

21. It is specifically admitted by the present Appellant/Claimant that the said Kamla W/o Sewa Ram was not related to his family. But the Appellant/Claimant has come forward with a story that Kamla had taken care of the Appellant/Claimant and his siblings after the death of his mother, Har Devi in the year 2001 and Kamla out of love & affection

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had executed a Will dated 26.07.2016 (Annexure-G) in favour of the Appellant/Claimant in respect of Jhuggi No. C-549. However, there is nothing to corroborate the same except the self serving statement of the beneficiary himself.

22. It is pertinent to point out that the Appellant/Claimant has just tendered the Photostat copy of the Will dated 26.07.2016 (Annexure-G) and the original was neither placed on file nor shown to us. This shows that the original Will dated 26.07.2016 (Annexure-G) has not seen the light of day till today. This Will is unregistered and the Appellant/Claimant has also not obtained probate of the same. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi No. C-549 of Kamla (since deceased) under the will dated 26.07.2016 by presenting its Photostat copy but the original was either produced before the DDA authority nor produced before us at any given point of time.

23. It is also pointed out that the date, month & year of death of Kamla is also not disclosed by the Appellant/Claimant when his statement was recorded before us on 26.07.2023 as he is silent on this aspect. It is pointed out that the Death Certificate dated 08.11.2017 of Kamla is placed on file but for the best reason known to the Appellant/Claimant he had chosen not to tender the same in his evidence in support of his claim. Since the Appellant/Claimant himself had annexed this document with his appeal and accordingly it is taken into consideration and marked as Annexure-Z. The Death Certificate dated 08.11.2017 (Annexure-Z) shows that Kamla had died on 14.09.2017.

24. It is pertinent to point out that the Appellant/Claimant has not disclosed the detail of the family of said Kamla. He is silent about the number & names of the children she was having and also as to when her husband Sewa Ram had died. The date, month & year of death of Kamla and her husband Sewa Ram is also not disclosed by the Appellant/Claimant. No record with regard to her cremation is placed on file to show that it was the Appellant/Claimant, who had performed her last rites.

25. Further, the Appellant/Claimant has stated that Kamla had taken care of the Appellant/Claimant & his siblings after the death of his mother, Har Devi in the year 2001 and Kamla out of love & affection had executed a Will dated 26.07.2016

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(Annexure-G) in his favour in respect of Jhuggi No. C-549. But the Appellant/Claimant is silent with regard to the place of execution of will and the name of the witnesses in whose presence the impugned will was executed. There is no doubt that the will need not be registered as per the law of the land. However, the execution of the Will dated 26.07.2016 (Annexure-G) is shrouded in suspicious circumstances and no cogent material is placed on file to show that the said Kamla W/o Sewa Ram had executed the impugned will dated 26.07.2026 in favour of the Appellant/ Claimant out of love & affection and while in disposing state of mind & health.

26. It has already been pointed out that is not disputed that the present appeal involves about the dispute with regard claim for alternative claim against the single storey Jhuggi No. C-549, Bhoomiheen Camp, Kalkaji, which belonged to Kamla W/o Sewa Ram. But the Appellant/ Claimant himself is not clear as to whether he is claiming allotment in his individual capacity or as legal heir of Kamla (since deceased) under will dated 26.07.2026. If he is claiming allotment in his individual capacity then he has to show that he fulfill the eligibility criteria as per the policy guidelines issued by DDA and possess all the requisite documents on the cutoff date of 01.01.2015. But in case he is claiming allotment in the capacity of legal heir of Kamla (since deceased) under will dated 26.07.2026 then in that eventuality he has to show that the said Kamla W/o Sewa Ram fulfill the eligibility criteria as per the policy guidelines issued by DDA and possess all the requisite documents on the cutoff date of 01.01.2015. The Appellant/ Claimant has simply stated that his claim has been wrongly rejected by DDA.

27. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make allotment in his favour but the material placed on file shows that neither the Appellant/ Claimant nor the said Kamla W/o Sewa Ram (since deceased) fulfill the eligibility criteria as per the policy guidelines issued by DDA and possess all the requisite documents on the cutoff date of 01.01.2015 as per our discussion herein below.

28. We shall now appraise the material placed on file to determine the eligibility on other parameters as to whether the said Kamla W/o Sewa Ram (since deceased) and/or 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/his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior

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to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

DOCUMENTS OF KAMLA W/O SEWA RAM (SINCE DECEASED)

29. The Appellant/Claimant has not tendered any documents of Kamla W/o Sewa Ram (since deceased) except her Ration Card (Annexure-F) to show that she fulfill the eligibility criteria as per the policy guidelines issued by DDA and possess all the requisite documents on the cutoff date of 01.01.2015. It is pointed out that the Ration Card (Annexure-F) has been issued in favour of Kamla W/o Sewa Ram on the address of Jhuggi No. C-549 and in that only her name is mentioned but name of any of his family members is not mentioned and further the date of issuance is not mentioned. Therefore, this document is not sufficient to show that she fulfill the eligibility criteria as per the policy guidelines issued by DDA and was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

DOCUMENTS OF THE APPELLANT/CLAIMANT PANKAJ

30. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), Voter List of the year 2015 (Annexure-H) and Voter List of the year 2019 (Annexure-I).

31. It is pointed out that the Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B) and both the Voter ID Cards are bearing the same No. i.e. ARE 1862837. The first Voter ID Card bearing No. ARE 1862837 (Annexure-A) has been issued on 25.03.2014, much prior to the cutoff date 01.01.2015 and the second Voter ID Card also bearing No. ARE 1862837 (Annexure-B) has been issued on 01.07.2021, much after the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 1244 in the Voter List of the year 2015 (Annexure-H) and at Sl. No. 1318 in the Voter List of the year 2019 (Annexure-I) and in both the Voter Lists the number of Voter ID Card is mentioned to be ARE 1862837.

32. However, it is pertinent to point out that the address of the Appellant/Claimant is mentioned to be Jhuggi No. C-548 in the first Voter ID Card bearing No. ARE 1862837

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(Annexure-A) as well as in the Voter List of the year 2015 (Annexure-H) & in the Voter List of the year 2019 (Annexure-I). But in the second Voter ID Card bearing No. ARE 1862837 (Annexure-B) his address is mentioned to be Jhuggi No. C-549.

33. The Appellant/ Claimant has stated that he had got the first Voter ID Card bearing No. ARE 1862837 (Annexure-A) issued on 25.03.2014 on address of Jhuggi No. C-549 but he got the address changed to Jhuggi No. C-549 and got the second Voter ID Card bearing No. ARE 1862837 (Annexure-B) issued on 01.07.2021. This shows that he had got the address change from Jhuggi No. C-548 to Jhuggi No. C-549 to create documents so that he can use the same to claim allotment.

34. This accordingly shows that the Appellant/Claimant was initially having the Voter ID Card bearing No. ARE 1862837 (Annexure-A) on the address of his parents bearing Jhuggi No. C-548 but subsequently he has got the address changed to the Jhuggi of Kamla W/o Sewa Ram (since deceased) bearing Jhuggi No. C-549 and accordingly got the second Voter ID Card also bearing No. ARE 1862837 (Annexure-B) issued on 01.07.2021 on the new address. The address was changed 01.07.2021 thereby showing that it was changed much after the death of Kamla W/o Sewa Ram on 14.09.2017 and also much after the cutoff date of 01.01.2015. This creates doubt and suspicion because on the cutoff date of 01.01.2015 the Voter ID Card was issued on the address of his parents bearing Jhuggi No. C-548 and the address was got changed on 01.07.2021.

35. It is pointed out that the Appellant/Claimant has tendered his Aadhar Card No. 4180 2254 2236 (Annexure-C). In the course of arguments the Appellant/Claimant has also admitted that previously he had got the Aadhar Card bearing same number issued on the address of his father bearing Jhuggi No. C- 548 and also a Voter ID Card bearing No. ARE 1862837 on the address of Jhuggi No. C- 548 but later on he had got the address changed on both the Voter ID Card and the Aadhar Card to new address of Jhuggi No. C-548 of Kamla W/o Sewa Ram after her death. He has tendered the new Aadhar Card No. 4180 2254 2236 (Annexure-C) with changed address of Jhuggi No. C-548 of Kamla but the original was allegedly misplaced by him and he could not tender the same on record. But the fact remains that originally the Aadhar Card No. 4180 2254 2236 (Annexure-C) was also issued on the address of his father bearing Jhuggi No. C- 548

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and after the death of Kamla W/o Sewa Ram on 14.09.2017 the address was changed to her Jhuggi bearing Jhuggi No. C- 549 similarly to his changing the address on his Voter ID Card. Thus on the cutoff date of 01.01.2015 the Appellant/Claimant was having his Aadhar Card No. 4180 2254 2236 issued on the address of his father bearing Jhuggi No. C- 548 and not on the address of Jhuggi No. C-549 regarding which he is claiming allotment from DDA. This creates doubt and suspicion because the Appellant/ Claimant had got the address changed on his Voter ID Card as well as Aadhar Card to create documents on the Jhuggi No. C-549 after the death of Kamla W/o Sewa Ram and also much after the cutoff date of 01.01.2015 and it was done with dishonest intention to claim alternative allotment against her Jhuggi No. C-549.

36. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card & Aadhar Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. C-549 regarding which he is claiming allotment from DDA and further his name also does not appear the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey on the address of Jhuggi No. C-549 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 guidelines issued by DDA.

37. The Appellant/Claimant has tendered the Electricity Bill (Annexure-D), Passbook of Indian Overseas Bank (Annexure-E) and Ration Card (Annexure-F).

38. It is pointed out that the Electricity Bill (Annexure-D) shows that the Appellant/Claimant had taken the electricity connection on the address of Jhuggi No. C-549 on 16.10.2018, much after the cutoff date of 01.01.2015. The Passbook of Indian Overseas Bank (Annexure-E) shows that the Appellant/Claimant had opened the account on the address of Jhuggi No. C-549 on 14.09.2014. The Ration Card (Annexure-F) has been issued in favour of Kamla W/o Sewa Ram on the address of Jhuggi No. C-549 and only her name is mentioned and that of none of his family members is mentioned and further 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 his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was

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not having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. C-549 regarding which he is claiming allotment from DDA and further his name also does not appear the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey on the address of Jhuggi No. C-549 regarding which he is claiming allotment from DDA.

39. The material placed on file shows that the Appellant/ Claimant was not having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. C-549 regarding which he is claiming allotment from DDA and further his name also does not appear the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey on the address of Jhuggi No. C-549 regarding which he is claiming allotment from DDA. The documents, Annexure-A to Annexure-I, 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

40. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/63/058.G/1380 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

2/8/2023

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

2/8/2023

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 446 of 2023

Date of Institution: 29.11.2022

Date of Order: 02.08.2023

Present: Appellant/Claimant Kanchan Burman W/o Sapan Burman D/o Ram

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-293, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-293 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer,

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Bhoomiheen Camp, duly communicated its order bearing No. 385/9/22.1/1683 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 446 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 17.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-293 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on 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 as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant, Kanchan Burman, has been recorded before us on 17.07.2023, wherein she has stated that her in-laws, Kitiz Burman & Savita, are having two sons, Sapan & Sajal and one daughter, Sheela. All the children are married. Sheela is married with Arvind and she is living in her matrimonial home in Jhuggi No. A-205 in Bhoomiheen Camp and regarding that DDA has made allotment in her favour. Sajal is married with Puja and having two children, Kritika & Soham. Sapan is married with Kanchan (Appellant/Claimant) and having two children, Jhanvi & Harsh.

9. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. C-293 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that her in-laws, Kitiz Burman & Savita, along with the family of their son Sajal are living on the ground floor of Jhuggi No. C-293 and regarding that DDA has made allotment in favour of her mother-in-law Savita. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that she along with her husband Sapan and both the children, Jhanvi & Harsh, is living on the first floor of Jhuggi No. C-293. The Appellant/Claimant has sought allotment from DDA against the first floor of Jhuggi No. C-293 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No.446 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-M, and prayed that DDA be directed to make allotment in her favour.

12. DDA has furnished the survey record along with two video clips pertaining to Jhuggi No. C-293.The video clips were played before the Appellant/Claimant when her statement was recorded before us on 17.07.2023 wherein the Appellant/Claimant has stated that the first video clip pertains to the ground floor in which her mother-in-law Savita is seen and further, her room & kitchen are also seen. The second video clip pertains to the first floor of the Jhuggi No. C-293 in which the Appellant/Claimant, Kanchan, is seen and further, her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. C-293 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and

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ground floor has been used for residential purposes by her in-laws, Kitiz Burman & Savita, whereas the first floor is used for residential purposes by Kanchan (Appellant/ Claimant of Appeal No. 446 of 2023).

13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-293 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including 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 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-M, in support of her claim and prayed that DDA be directed to make allotment in her favour.

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/9/22.1/1683 dated 07.11.2022.

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

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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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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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20. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

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

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24. The Appellant/Claimant has tendered her Voter ID Card No. ARE 1518364 (Annexure-A), Aadhar Card (Annexure-B) & PAN Card (Annexure-C) and Voter List of the year 2013 (Annexure-M).

25. It is pointed out that Voter ID Card No. ARE 1518364 (Annexure-A) has been issued on 13.10.2015. The name of the Appellant/Claimant appears at Sl. No. 756 in the Voter List of the year 2013 (Annexure-M). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and her name also appears in the Voter List of the year 2013.

26. The Appellant/Claimant has admitted that she 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. C-293 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered Ration Card (Annexure-K), which has been issued in favour of her mother-in-law Savita and the name of the Appellant/Claimant is mentioned. The Appellant/Claimant has tendered the application dated 19.07.2014 (Annexure-L) for the issuance of the Ration Card in her favour but till now no Ration Card has been issued. Merely, making an application (Annexure-L) is of no consequence as per the policy guidelines issued by DDA dweller claiming allotment against the first floor must possess a separate Ration Card on the cutoff date 01.01.2015. 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 Jhuggi No. C-293.Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

27. The Appellant/Claimant has tendered Voter ID Card No. CXY 1078518 (Annexure-D) & Aadhar Card (Annexure-E) of her husband Sapan, the Passbook of PNB (Annexure-F), Voter ID Card No. ARE 256965 (Annexure-G) & Aadhar Card (Annexure-H) of her daughter Jhanvi, Aadhar Card (Annexure-I) of her son Harsh and the Electricity Bill (Annexure-J).

28. It is pointed out the Voter ID Card No. CXY 1078518 (Annexure-D) has been issued on 08.03.2002, much prior to the cutoff date 01.01.2015. The Passbook of PNB (Annexure-F) shows that the Appellant/Claimant had opened the account on 11.02.2015, much

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after the cutoff date 01.01.2015. The Voter ID Card No. ARE 256965 (Annexure-G) of her daughter Janvi has been issued on 21.12.2021, much after the cutoff date 01.01.2015. The Electricity Bill (Annexure-J) shows that the connection has been taken by the Appellant/Claimant on 09.07.2019, much after the cutoff date 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

29. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-M, 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 separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she is claiming allotment against the upper floor.

30. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-93 regarding which she is claiming allotment from DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

31. 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. 385/9/22.1/1683 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 578 of 2023

Date of Institution: 06.12.2022

Date of Order: 02.08.2023

Present: Appellant/Claimant Gulsher Ahamed S/o Tofiq Ahmed

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-311/A, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-311/A was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/68/42.2/1558 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by

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the same, the present Appeal No. 578 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 11.07.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-311/A was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 second floor as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Gulsher Ahamed, has been recorded before us on 11.07.2023, wherein he has stated that his parents, Tofik Ahamed & Shamim Bano, are having three sons, Juber, Tanveer & Gulsher and one daughter, Shamrin. All

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the children are married. Shamrin is married with Arif and she is living in her matrimonial home in Rajasthan. Tanveer is married with Farhin. Juber is married with Shabana and having two children, Uzer & Huren and he is living on rent in Tughlaqabad. Gulsher (Appellant/Claimant) is married with Nazneen and having one son, Hamza.

9. The Appellant/Claimant has stated that his parents are having a triple storey Jhuggi No. C-311/A and it comprises of one room on each floor and an iron ladder is placed outside in the gali for going to the first floor and further, a pucca staircase has been constructed on the first floor for going to the second floor.

10. The Appellant/Claimant has stated that Rahish is the cousin brother of his father Tofik. Rahish along with his wife Reshma is living on the ground floor of the Jhuggi No. C-311 regarding that DDA has made allotment in favour of Reshma W/o Rahish. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that the first floor and the second floor of the Jhuggi No. C-311 are bearing different Jhuggi Numbers i.e C-311/A. His parents, Tofik & Shamim, along with the family of Tanveer is living on the first floor of Jhuggi, which was bearing No. C-311/A and regarding that DDA has made allotment in favour of his mother Shamim. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that he along with his wife Nazneen & son Hamza is living on the second floor bearing Jhuggi No. C-311/A. The Appellant/Claimant has sought allotment from DDA against the second floor of the Jhuggi No. C-311/A but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No.578 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document Annexure-A to Annexure-M, in support of his claim and prayed that DDA be directed to make allotment in his favour.

13. DDA has furnished the survey record along with three video clips pertaining to Jhuggi No. C-311/A. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 11.07.2023 wherein he has stated that first video clip pertains to the ground floor bearing Jhuggi No. C-311 in which Rahish is seen and further, his room & kitchen are also seen and an iron ladder, which is placed outside in the gali for going to the first floor is also seen. The second video clip pertains to the

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first floor of Jhuggi No. C-311/A in which his mother, Shamim, is seen and further her room & kitchen are also seen. The third video clip pertains to the second floor of the Jhuggi No. C-311/A in which a pucca staircase going from the first floor to the second floor is seen and further Gulsher (Appellant/Claimant) is seen and further, his room & kitchen on the second floor are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a triple storey Jhuggi No C-311/A was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the ground floor is used for residential purposes by Reshma W/o Rahish and the first floor is used for residential purposes by his mother Shamim and the second floor is used for residential purposes by the Appellant/ Claimant & his family.

14. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. C-311/A, Bhoomiheen Camp is a pucca structure and the Appellant/Claimant and his family was using the second floor of the said Jhuggi for residential purposes.

15. 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 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 second floor 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-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. 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

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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 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 he has claimed allotment against the second floor, which is not included in the definition of upper floor and further he 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. 385/68/42.2/1558 dated 07.11.2022.

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.

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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 is 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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

19. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

20. It is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part–B Para 10 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. 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.

22. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card 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

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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: -

"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.

23. 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 with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

24. 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) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

25. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015

GIST OF THE POLICY

26. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

27. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further 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.

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28. 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 he 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.

29. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.

30. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1456812 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-L) and Voter List of the year 2019 (Annexure-M).

31. It is pointed out that Voter ID Card No. ARE 1456812 (Annexure-A) has been issued on 07.01.2011, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 126 in the Voter List of the year 2014 (Annexure-L) and at Sl. No. 140 in the Voter List of the year 2019 (Annexure-M). Accordingly, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in the Voter List of the year's 2014 & of the year of survey.

32. 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. C-311/A regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered his two Ration Cards (Annexure-G & Annexure-H). The Old Ration Card (Annexure-G) has been issued in favour of his father Tofik on 26.10.2004 and the name of the Appellant/Claimant has been mentioned. The new Ration Card (Annexure-H) has been issued in favour his mother Shamim and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. The fact remains that the

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Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. C-311/A 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

33. The Appellant/Claimant has tendered his Passport (Annexure-D), the Passbook of PNB (annexure-E), the Electricity Bill (Annexure-F) as well as Voter ID Card No. ARE 2325157 (Annexure-I) & Aadhar Card (Annexure-J) of his wife Nazneen and Aadhar Card (Annexure-K) of his son Hamza.

34. It is pointed out that the Passport (Annexure-D) of the Appellant/Claimant has been issued on 29.05.2017, much after the cutoff date 01.01.2015. The Passbook of PNB (Annexure-E) shows that the Appellant/Claimant had opened the account on 08.10.2009. The Electricity Bill (Annexure-F) shows that the electricity connection has been taken by his father Tofik on 20.05.2008 on the address of the first floor of the Jhuggi No. C-311/A, thereby, showing that the Appellant/Claimant was not having electricity connection on the second floor of Jhuggi No. C-311/A regarding which the Appellant/Claimant is claiming allotment from DDA. The Voter ID Card No. ARE 2325157 (Annexure-I) of his wife Nazneen has been issued on 04.11.2019, much after the cutoff date 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these document do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

35. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of second floor of the Jhuggi No. C-311/A regarding which he is claiming allotment from DDA and further he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy. The documents, Annexure-A to Annexure-M, are of no help to the Appellant/Claimant because these

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documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. C-311/A against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

36. 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. 385/68/42.2/1558 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

(Ranbir Singh) 2/8/2023	**(Satish Ahlawat)** 2/8/2023	**(Rachna Tiwary)** 2/8/2023
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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 622 of 2023

Date of Institution: 19.11.2022

Date of Order: 02.08.2023

Present: Appellant/ Claimant Ratna Mandal W/o Anand Mandal D/o Basudev Singh

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-98, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-98 was found to exist on the first floor 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, Bhoomiheen Camp, duly

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communicated its order bearing No. 385/36/029.1-A/944 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 622 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 11.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-F, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No.C-98 was found to exist on the first floor but she had failed to submit required documents, i.e., Ration Card 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on 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 first floor as per the policy guidelines issued by DDA.

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7. The statement of the Appellant/Claimant, Ratna Mandal, has been recorded before us on 11.07.2023, wherein she has stated that she was married with Anand and having two children, Jyoti & Pritam. Her husband Anand had expired on 05.03.2014 and his Death Certificate is Annexure-D. They are living on rent on the first floor of the Jhuggi No. C-98 of Bhola Ram & Sita. The said Jhuggi No. C-98 is double storey structure and it comprises of two rooms on the ground floor and one room on the first floor and an iron ladder is placed outside in the gali for going to the upper floor.

8. The Appellant/Claimant has stated that Bhola Ram & Sita, are having three sons, Sushil, Ashok & Rajinder. Sushil is unmarried. Ashok is married with Sonu and having three children. Sonu has since expired. Rajinder is married with Jyoti and having four children.

9. The Appellant/Claimant has stated that Bhola Ram & Sita, along with their unmarried son Sushil are living in the first room on the ground floor of Jhuggi No. C-98 and regarding that DDA has made allotment in favour of Bhola Ram. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that Ashok S/o Bhola along with his family is living in the second room on the ground floor of the Jhuggi No. C-98 and regarding that DDA has made allotment in favour of Ashok. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that Rajinder S/o Bhola along with his family is living in the first room on the first floor of the Jhuggi No. C-98. Rajinder S/o Bhola has sought allotment from DDA against the first room on the first floor of the said Jhuggi No. C-98 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 379 of 2023 before the Appellate Authority for redressal.

12. The Appellant/Claimant has stated that she along with her children, Jyoti & Pritam, is living on rent in the second room on the first floor of the Jhuggi No. C-98. The Appellant/Claimant has sought allotment from DDA against the second room on the first floor of the said Jhuggi No. C-98 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 622 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant

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has tendered document, Annexure-A to Annexure-f, in support of her claim and prayed that DDA be directed to make allotment in his favour.

13. DDA has furnished the survey record along with three video clips pertaining to Jhuggi No. C-98. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 11.07.2023 wherein she has stated that the first video clip pertains to the first room on the ground floor of C-98 in which Sita W/o Bhola is seen and further, her room & kitchen on the ground floor are also seen. The second video clip pertains to the second room on the ground floor of Jhuggi No. C-98 in which Ashok S/o Bhola is seen and further, his room & kitchen are also seen. The third video clip pertains to the first floor of Jhuggi No. C-98 in which Rajinder S/o Bhola is seen and further, his room & kitchen are also seen. There is no video of the alleged Jhuggi of the Appellant/Claimant on the first floor of Jhuggi No. C-98.

14. The Appellant/Claimant has stated that she had not got the survey conducted of her Jhuggi on the first floor of Jhuggi No. C-98 regarding which she is claiming allotment from DDA. The Appellant/Claimant has also stated that in the survey records maintained by DDA it is mentioned that she is living on rent. There is no material on record to corroborate the statement of the Appellant/Claimant that she was living in the second room on the first floor of Jhuggi No. C-98. Even if the statement of the Appellant/Claimant is taken to be gospel truth then also it is of no help to her because she has claimed allotment as tenant under the family of landlord Bhola Ram and Sita and already two allotments have been made in favour of Sita W/o Bhola Ram and Ashok S/o Bhola Ram whereas the claim of Rajinder S/o Bhola Ram has been rejected by EDC and the Appeal No. 379 of 2023 filed by Rajinder S/o Bhola Ram has also been dismissed by this Appellate Authority on 14.07.2023. But it seems that the present Appellant/Claimant in collusion with the family of Bhola Ram has tried to maximize allotment from DDA against Jhuggi No. C-98 and in furtherance of their conspiracy she had come forward with a wrong & false story that she was living there as tenant. But neither any Rent Deed is placed on file nor the date of inception of tenancy is disclosed. The material placed on file shows that the Appellant/Claimant was not living separately & independently on the first floor of the Jhuggi No. C-98 in Bhoomiheen Camp but she had filed wrong & false claim to seek allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not

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fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor

15. Now we shall first appraise the material placed on file to determine the eligibility on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor of the said Jhuggi 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- F, in support of her claim and prayed that DDA be directed to make allotment in her favour.

17. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but 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 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. 385/36/029.1-A/944 dated 07.11.2022.

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.

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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.

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- 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. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and she must also possess a Voter ID Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

20. In the light of our discussion above, we shall now appraise the material placed on file by taking holistic & realistic view to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of the said Jhuggi as per the policy guidelines issued by DDA.

21. The Appellant/Claimant has tendered her Voter ID Card No. ARE 2548329 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter List of the year 2015 (Annexure-F).

22. It is pointed out that the Voter ID Card No. ARE 2548329 (Annexure-A) has been issued on 07.08.2021, much after the cut off date of 01.01.2015. It is pointed out that the name of the Appellant/Claimant appears at Sl. No. 56 in the Voter List of the year

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2015 (Annexure-F) in which the number of her Voter ID Card is mentioned to be ARE 1876613. However, this Voter ID Card bearing No. ARE 1876613 has not been placed on file by the Appellant/Claimant for the reason best known to her. Accordingly, the date of issuance of this Voter ID Card No. ARE 1876613 could not be ascertained. Furthermore, the Voter Lists of the year 2012, 2013, 2014 & 2019 has also not been tendered by the Appellant/Claimant to show that her name appears in the Voter Lists of these years. But the fact remains that the Appellant/Claimant was having a Voter ID Card No. ARE 1876613, which is reflected in the Voter List of the year 2015 (Annexure-F) but the Appellant/Claimant had got the second Voter ID Card No. ARE 2548329 (Annexure-A) issued in spite of the fact that she was already having another Voter ID Card No. ARE 1876613. The reason for having got the second Voter ID Card No. ARE 2548329 issued on 07.08.2021 is not explained when the Appellant/Claimant was admittedly having the Voter ID Card No. 1876613. Since, the Voter ID Card No. ARE 1876613 has not been placed on file, therefore, it cannot be said that it was issued prior to the cut off date of 01.01.2015 or on any dates subsequently. And merely the fact that this Voter ID Card has been reflected in the Voter List of the year 2015 (Annexure-F) is not sufficient to draw the inference that this Voter ID Card was issued much prior to the cut off date of 01.01.2015. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in the Voter lists of the years 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 does not fulfill the eligibility criteria as per the guidelines issued by DDA.

23. 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 upper floor of the Jhuggi No. C-98 regarding which she 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. C-98 regarding which she 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

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24. The Appellant/Claimant has tendered the Passbook of PNB (Annexure-E) thereby showing that the account was opened by the Appellant/Claimant on 28.02.2021, much after the cutoff date of 01.01.2015. It is pointed out that the above-mentioned document is of no help to the Appellant/Claimant because this document does 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 separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor.

25. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in the Voter lists of the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 in spite of the fact that he has claimed allotment against the first floor of Jhuggi No. C-98. The documents, Annexure-A to Annexure-F, 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.

26. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in the Voter lists of the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 in spite of the fact that she has claimed allotment against the first floor of Jhuggi No. C-98. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

27. 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. 385/36/029.1-A/944 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 689 of 2023

Date of Institution: 27.01.2023

Date of Order: 02.08.2023

Present: Appellant/Claimant Savita Dass W/o Sukumal Dass D/o Dinesh Dass

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-413, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-413 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/37/051.1-

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A/1012 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 689 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 19.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-413 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on 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 as per the policy guidelines issued by DD.

7. The statement of the Appellant/Claimant, Savita Dass, has been recorded before us on 19.07.2023 wherein she has stated that her in-laws, Sukhman & Nayan Dass, are having two sons, Sapan & Balram and one daughter, Savitri. All the children are

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married. Savitri is married with Dilip and having two children, Deepak & Shalu and they are living in her matrimonial home in Greater Kailash-II, Delhi. Balram is married with Upasna. Sapan is married with Savita (Appellant/Claimant) and having three children, Sonia, Sagar & Laxmi.

8. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. C-413 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor. The Appellant/Claimant has stated that her in-laws, Sukhman & Nayan Dass, along with the family of Balram are living on the ground floor of Jhuggi No. C-413 and regarding that DDA has made allotment in favour of her mother-in-law Nayan Das. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that she along with her husband Sapan and all the three children, Sonia, Sagar & Laxmi is living on the first floor of the Jhuggi No. C-413. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. C-413 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 689 of 2023 before the Appellate Authority for redressal. 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.

10. DDA has furnished the survey records along with three video clips of Jhuggi No. C-413. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 19.07.2023 wherein the Appellant/Claimant has stated that the first video clip pertains to the ground floor of the Jhuggi No. C-413 in which her mother-in-law Nayan Dass is seen and further, her room & kitchen are also seen. The other two video clips pertain to the first floor in which the Appellant/Claimant Savita is seen on the first floor of Jhuggi No. C-413 and further, her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. C-413 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the ground floor has been used for residential purposes by her in-laws, Sukhman & Nayan Dass, along with the family of their son Balram whereas the first floor is used for residential purposes by the Appellant/ Claimant.

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11. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-413 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

12. 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 first floor as per the policy guidelines issued by DDA.

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

14. 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 separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/37/051.1-A/1012 dated 07.11.2022.

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.

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

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

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

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

16. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17. As already pointed out above, condition contained in Part–B Para 10 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."

18. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is

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

GIST OF THE POLICY

19. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

20. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

21. The Appellant/Claimant has tendered her Voter ID Card No. ARE 1185461 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-L) and Voter List of the year 2019 (Annexure-M).

22. It is pointed out that the Voter ID Card No. ARE 1185461 (Annexure-A) has been issued on 24.01.2010, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant has been mentioned at Sl. No. 28 in the Voter List of the year 2014 (Annexure-L) and at Sl. No. 42 in the Voter List of the year 2019 (Annexure-M). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and her name also appears in the Voter List of the year's 2014 & of the year of survey.

23. 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. A-413

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regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered her joint Ration Card (Annexure-K), which has been issued in favour of her mother-in-law, Nayan Dass on 17.02.2015, much after the cut off date of 01.01.2015 and further, the name of the Appellant/Claimant has been mentioned. 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. A-413 regarding which she 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

24. The Appellant/Claimant has tendered the Voter ID Card No. CXY 1074509 (Annexure-D), Aadhar Card (Annexure-E), PAN Card (Annexure-F) & Driving Licence (Annexure-G) of her husband Sapan, Aadhar Card (Annexure-H) of her mother-in-law Nayan Dass, Electricity Bill (Annexure-I) and Passbook of Allahabad Bank (Annexure-J).

25. It is pointed out that the Voter ID Card No. CXY 10754509 (Annexure-D) of her husband Sapan has been issued on 07.03.2002. The Driving Licence of her husband Sapan (Annexure-G) has been issued on 09.11.2006. The Electricity Bill (Annexure-I) shows that the connection has been taken by her father-in-law Sukhman on 13.05.2008 on the ground floor of the Jhuggi No. C-413 thereby showing that the Appellant/Claimant was not having an electricity connection on the first floor of Jhuggi No. C-413 regarding which she is claiming allotment from DDA. The Passbook of Allahabad Bank (Annexure-J) shows that the Appellant/Claimant had opened the account on 18.01.2017. It is pointed out that the above-mentioned document is 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 separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

26. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-M, 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

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per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she is claiming allotment against the upper floor.

27. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-413 regarding which she is claiming allotment from DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

28. 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. 385/37/051.1-A/1012 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

(Ranbir Singh) 2/8/2023	**(Satish Ahlawat)** 2/8/2023	**(Rachna Tiwary)** 2/8/2023
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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 698 of 2023

Date of Institution: 31.01.2023

Date of Order: 02.08.2023

Present: Appellant/Claimant Brij Raj Yadav S/o Phool Badan

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-569, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-569 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/66/112.1-1/1505

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dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 698 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 13.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-F, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-569 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DD.

7. The statement of the Appellant/Claimant, Brij Raj Yadav, has been recorded before us on 13.07.2023 wherein he has stated that his parents, Phoolbadan & Shanti, are having

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four sons, Narender, Brijraj, Bansraj & Vrinda. Both the parents have expired about ten years ago. All the children are married. Vrinda is married with Sheela and he is living in Mumbai, Maharashtra. Narender is married and he is having two children and he along with his family is living in Uttar Pradesh. Bansraj is married with Maya and having one daughter Palak. Brij Raj (Appellant/Claimant) is married with Rita and having two children, Nitish & Rani.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. C-569 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

9. The Applicant/Claimant has stated that his brother Bans Raj along his wife Maya and daughter Palak is living on the ground floor of the Jhuggi No. C-569 and regarding that DDA has made allotment in favour of Maya W/o Bans Raj. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that he along with his wife Rita and both the children, Nitish & Rani, is living on the first floor of the Jhuggi No. C-569. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No C-569 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 698 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-F, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished the survey record along with five video clips pertaining to Jhuggi No. C-698. The video clips were played before Appellant/Claimant when his statement was recorded before us on 13.07.2023 wherein he has stated that three video clips pertain to the ground floor of Jhuggi No. C-569 in which his sister-in-law, Maya W/o Bansraj, is seen and further, her room & kitchen are also seen and further a pucca staircase going from the ground floor to the upper floor is also seen. The next two video clips pertain to the first floor of the Jhuggi No. C-569 in which the Appellant/Claimant Brij Raj is seen and further, his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. C-569 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by his

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brother Bans Raj and his family whereas the first floor is used for residential purposes by Brij Raj (Appellant/ Claimant of Appeal No. 698 of 2023).

12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-569 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

13. 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 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 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-F, in support of his claim and prayed that DDA be directed to make allotment in his 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 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 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. 385/66/112.1-1/1505 dated 07.11.2022.

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 Government and /or its autonomous bodies/agencies like PSU/Local Bodies.

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

17. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18. As already pointed out above, condition contained in Part–B Para 10 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."

19. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment

against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

20. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

21. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

22. The Appellant/Claimant has tendered his Voter ID Card No. CXY 1337021 (Annexure-A), Aadhar Card (Annexure-B), Voter List of the year 2012 (Annexure-E) and Voter List of the year 2019 (Annexure-F).

23. It is pointed out that Voter ID Card No. CXY 1337021 (Annexure-A) has been issued 16.02.2017, much after the cutoff date 01.01.2015 and the name of the Appellant/Claimant appears at Sl. No. 415 in the Voter List of the year 2012 (Annexure-E) and at Sl. No. 780 in the Voter List of the year 2019 (Annexure-F) and the number of his Voter ID Card has been mentioned to be bearing number CXY 1337021. It shows that

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the original Voter ID Card No. CXY 1337021 must have been issued much earlier to 16.02.2017 as it has been reflected in the Voter lists of the year 2012 & 2019 but the original is not placed on file to ascertain the date of its issuance. The duplicate Voter ID Card (Annexure-A) has been issued on 16.02.2017 but the original was in existence even in the year 2012 (Annexure-E) and at Sl. No. 780 in the Voter List of the year 2019 (Annexure-F). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012 & also in the year of survey.

24. 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. C-569 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 Jhuggi No. C-569. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

25. The Appellant/Claimant has tendered his Driving License (Annexure-C) and the Passbook of Union Bank of India (Annexure-D).

26. It is pointed out that the Driving License (Annexure-C) of the Appellant/Claimant has been issued on 21.12.2017, much after the cutoff date 01.01.2015. Further, the passbook of Union Bank of India (Annexure-D) shows that the Appellant/Claimant had opened the account on 26.05.2016, 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 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to

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Annexure-F 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 separate Ration Card on the cutoff date of 01.01.2015 in spite of the fact that he is claiming allotment against the upper floor.

28. 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. 385/66/112.1-1/1505 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 382 of 2023

Date of Institution: 29.11.2022

Date of Order: 03.08.2023

Present: Appellant/Claimant Subhankar Haldar S/o Shankari Haldar

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-258, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-258 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No.

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385/36/69.1/965 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 382 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 10.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-258 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DD.

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7. The statement of the Appellant/Claimant, Subhankar Haldar, has been recorded before us on 10.07.2023 wherein he has stated that his parents, Sishu Pal & Sankari, are having two sons, Subhankar & Uttar. Sishu Pal had died about thirty years ago. Both the sons are married. Uttar is married with Papiya and having three children, Proba, Meenakshi & Radhika. Subhankar (Appellant/Claimant) is married with Chanchla and having two children, Shrishti & Vansh.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. C-258 and it comprises of one room on each floor and a pucca staircase has been constructed in the gali for going to the upper floor.

9. The Appellant/Claimant has stated that his mother Sankari along with the family of Uttar is living on the ground floor of the Jhuggi No. C-258 and regarding that DDA has made allotment in favour of his mother Sankari. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that he along with his wife Chanchla and both the children, Shrishti & Vansh, is living on the first floor of the Jhuggi No. C-258. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. C-258 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 382 of 2023 before the Appellate Authority. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished the survey records along with two video clips of Jhuggi No. C-258. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 10.07.2023 wherein the Appellant/Claimant has stated that the first video clip pertains to the ground floor of the Jhuggi No. C-258 in which his mother Sankari is seen and her room & kitchen are also seen. The second video clip pertains to the first floor of the Jhuggi No. C-258 in which the Appellant/Claimant, Subhankar, is seen on the first floor and further, his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. C-258 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by

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his mother Sankari and her family whereas the first floor is used for residential purposes by Subhankar (Appellant/ Claimant of Appeal No. 382 of 2023).

12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-258 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

13. 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 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 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-J, in support of his claim and prayed that DDA be directed to make allotment in his 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 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 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. 385/36/69.1/965 dated 07.11.2022.

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

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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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

17. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18. As already pointed out above, condition contained in Part–B Para 10 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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19. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

20. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

21. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

22. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1768513 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-I) and Voter List of the year 2019 (Annexure-J).

23. It is pointed out that the Voter ID Card No. ARE 1768513 (Annexure-A) has been issued on 10.09.2013, much prior to the cut off date of 01.01.2015. The name of the

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Appellant/Claimant appears at Sl. No. 1094 in the Voter List of the year 2014 (Annexure-I) and at Sl. No. 1180 in the Voter List of the year 2019 (Annexure-J). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 & also in the year of survey.

24. 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. C-258 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 Jhuggi No. C-258. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

25. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1770718 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Chanchla as well as the Electricity Bill (Annexure-G) & Passbook of Canara Bank (Annexure-H).

26. It is pointed out that the Voter ID Card No. ARE 1770718 (Annexure-D), has been issued on 10.09.2013. The Electricity Bill (Annexure-G) shows that the connection has been taken by his mother Sankari Haldar on 19.05.2008 on the ground floor of the Jhuggi No. C-258 thereby showing that the Appellant/Claimant was not having an electricity connection on the first floor of the Jhuggi No. C-258 regarding which he is claiming allotment from DDA. The Passbook of Canara Bank (Annexure-H) shows that the Appellant/Claimant had opened the account on 01.01.1994. 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 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-J, 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 separate Ration Card on the cutoff date of 01.01.2015 in spite of the fact that he is claiming allotment against the upper floor.

28. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-258 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, which make separate Ration Card a mandatory document for the upper floor.

29. 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. 385/36/69.1/965 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

30. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 415 of 2023

Date of Institution: 29.11.2022

Date of Order: 03.08.2023

Present: Appellant/ Claimant Dev Rani @ Devki W/o Jai Parkash D/o Kudeep Sharma

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-512, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-512 was found to exist on the ground floor 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, Bhoomiheen Camp, duly

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communicated its order bearing No. 385/62/042.G/1329 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 415 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 24.07.2023. 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 Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-512 was found to exist on the ground floor but she had failed to submit required documents, i.e., Voter ID Card 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 07.11.2022 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.

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-512 as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Dev Rani @ Devaki, has been recorded before us on 24.07.2023 wherein she has stated that she is married with Jai Prakash

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and having two sons, Sujit & Sagar, and two daughters, Soni & Anita. All except Anita are unmarried. Anita is married with Suraj and she is living in her matrimonial home in Phagwara, Punjab.

8. The Appellant/Claimant has stated that her family is having a single storey Jhuggi No. C-512 in which she along with her husband Jai Prakash and children is living. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi No. C-512 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 415 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-F, in support of her claim and prayed that DDA be directed to make allotment in her favour.

9. DDA has furnished the survey record along with one video clips pertaining to Jhuggi No. C-512. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 24.07.2023 wherein the Appellant/Claimant has stated that the video clip pertains to the ground floor in which the single storey Jhuggi No. C-512 having roof made of asbestos sheet is seen and further, the Appellant/Claimant is also seen and her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the single storey Jhuggi No. C-512 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/ Claimant was using the same for residential purposes.

10. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. C-512, Bhoomiheen Camp is a pucca structure and the Appellant/ Claimant was using the same for residential purposes.

11. 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, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the single storey Jhuggi No. C-512 as per the policy guidelines issued by DDA.

12. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA.

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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.

13. 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.

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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."

14. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and 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.

15. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in at least on the voter list of the year's 2012, 2013, 2014

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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-512 as per the policy guidelines issued by DDA.

16. The Appellant/Claimant has tendered her Voter ID Card No. DL/03/035/252769 (Annexure-A) and Aadhar Card (Annexure-B).

17. It is pointed out that Voter ID Card No. DL/03/035/252769 (Annexure-A) has been issued on 04.02.1995, much prior to the cutoff date 01.01.2015. The Appellant/Claimant has not tendered any Voter List to show that she had used this Voter ID Card No. DL/03/035/252769 (Annexure-A) to cast her vote in the relevant years from 2012 to 2019. The Appellant/Claimant has specifically stated that she had not used the Voter ID Card No. DL/03/035/252769 (Annexure-A) to cast her vote in any of the elections till now. Therefore, this Voter ID Card No. DL/03/035/252769 (Annexure-A) might have been cancelled and that is why the same is not reflected in any Voter Lists. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and 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. DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

18. The Appellant/Claimant has tendered the Voter ID Card No. DL/03/035/252768 (Annexure-C), Aadhar Card (Annexure-D) & PAN Card (Annexure-E) of her husband Jay Prakash and Electricity Bill (Annexure-F).

19. It is pointed out that the Electricity Bill (Annexure-F) shows that the Appellant/Claimant had taken electricity connection on 13.04.2022, much after the cutoff date 01.01.2015. It is also pointed out that the Voter ID Card No. DL/03/035/252768 (Annexure-C) has been issued on 04.02.1995, much prior to the cutoff date 01.01.2015. The Appellant/Claimant has specifically stated that her husband Jai Prakash had also not used this Voter ID Card No. DL/03/035/252768 (Annexure-C) to cast his vote in any of the elections from 2012 to 2019. This shows that neither the Appellant/Claimant nor her husband Jai Prakash had used their Voter ID Cards to cast vote in the year 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

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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 cut off date of 01.01.2015 and 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.

20. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 but her name does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents, Annexure-A to Annexure-J, 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

21. 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. 385/62/1042.G/1329 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

22. 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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(Rambir 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 454 of 2023

Date of Institution: 30.11.2022

Date of Order: 03.08.2023

Present: Appellant/Claimant Arjun Mandal S/o Jeetan Mandal

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-176, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-176 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal

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Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/36/51.1/957 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 454 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 31.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-176 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DDA.

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7. The statement of the Appellant/Claimant, Arjun Mandal, has been recorded before us on 31.07.2023 wherein he has stated that his father, Jeetan Mandal, had entered into his first marriage with Garbini and two sons; Arjun (Appellant/Claimant) & Krishna were born out of the wedlock. Krishna is married with Savita and having three children, Abhijit, Mausami & Sanchita. Arjun (Appellant/Claimant) is married with Jharna and having two children, Arindam & Anirban.

8. The Appellant/Claimant has stated that after the death of Garbini in the year 1982, his father Jeetan Mandal had entered into second marriage with Rewti. The second wife had changed and adopted her name to be Garbini @ Rewti and two children, Biswajit & Aparna were born from the second marriage. Biswajit is unmarried whereas Aparna is married with Nityanand.

9. The Appellant/Claimant has stated that his family is having two Jhuggis bearing Nos. C-176 & C-177. Both the Jhuggis are double storey structures and comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

Jhuggi No. C-177

10. The Appellant/Claimant has stated that Jhuggi No. B-177 is a double storey structure and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor. His brother Krishna along with his wife Savita and children is living on the ground floor of the Jhuggi No. C-177 and regarding that DDA has made allotment in favour of Savita. These facts are not disputed by DDA.

Jhuggi No. C-176

11. The Appellant/Claimant has stated that his step-mother, Garbina @ Rewti, second wife of Jeetan Mandal, is living on the ground floor of the Jhuggi No. C-176 and regarding that DDA has made allotment in favour of Garbini @ Rewti. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that he along with his wife Jharna and both the sons, Arindam & Anirban, is living on the first floor of the Jhuggi No. C-176. The Appellant/Claimant has sought allotment from DDA against the first floor of the said

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Jhuggi No. C-176 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal no. 454 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make allotment in his favour.

13. DDA has furnished the survey records along with two video clips of Jhuggi No. C-177. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 31.07.2023 wherein the Appellant/Claimant has stated that one video clip pertains to the ground floor of the Jhuggi No. C-177 in which Savita W/o Krishna is seen and further, her room & kitchen on the ground floor of the Jhuggi No. C-177 are also seen. The second video clip pertains to the first floor of the Jhuggi No. C-177 in which the Appellant/Claimant, Arjun Mandal, is seen and further, his room & kitchen on the first floor are also seen and further, he is also holding a slate in his hand on which "Arjun Mandal C-177/F" has been written. It is pointed out that the Appellant/Claimant has claimed allotment from DDA against the Jhuggi No. C-176 but he is getting the survey conducted against the Jhuggi No. C-177 as shown in the video clip prepared by the survey team of DDA.

14. This creates dent in the story put forward by the Appellant/Claimant and it shows that the Appellant/Claimant in collusion with his family members had submitted wrong claim to seek allotment from DDA against the first floor of Jhuggi No. C-176 by hook or crook. In furtherance of his conspiracy he somehow by misrepresenting the survey team had also got succeeded in getting the survey conducted on the first floor of the Jhuggi No. C-177 thereby showing that in fact he was living on the first floor of Jhuggi No. C-177 as he is clearly seen to be holding slate in his hand in the video clip prepared by the survey team on which "Arjun Mandal C-177/F" has been written.

15. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the Appellant/ Claimant was not living separately & independently on the first floor of the Jhuggi No. C-176 regarding which he is seeking allotment from 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.

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16. Now we shall first appraise the material placed on file to determine the eligibility on other parameters also 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 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 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-L, 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 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. 385/36/51.1/957 dated 07.11.2022.

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.

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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.

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.

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

20. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

21. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having

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any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

23. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

24. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

25. The Appellant/Claimant has tendered two Voter ID Cards (Annexure-A & Annexure-A/1), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2015 (Annexure-I) and Voter List of the year 2019 (Annexure-J).

26. It is pointed out that the Appellant/Claimant has tendered two Voter ID Cards (Annexure-A & A/1). The first Voter ID Card is bearing No. CXY 1078351 (Annexure-A) has been issued on 08.03.2002 and the second Voter ID Card is bearing No. ARE 1929940 (Annexure-A/1) has been issued on 16.12.2022. It is pointed out that the Appellant/Claimant has failed to explain for having got two Voter ID Cards issued in his favour.

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27. Moreover, no Voter Lists of any years is placed on file to show that the Appellant/Claimant had used the first Voter ID Card is bearing No. CXY 1078351 (Annexure-A) to cast his vote in any years and more specifically in the year's 2012, 2013 and 2014 because the Appellant/Claimant has tendered the Voter Lists of the year 2015 (Annexure-I) and Voter List of the year 2019 (Annexure-J) but in these Voter Lists instead of Voter ID Card No. CXY 1078351 (Annexure-A) some other Voter ID Card bearing No. ARE 1929940 (Annexure-A/1) is reflected.

28. As pointed out above the second Voter ID Card No. ARE 1929940 (Annexure-A/1) has been issued on 16.12.2022. Further, it is also pointed out that the name of the Appellant/Claimant appears at Sl. No. 892 in the Voter List of the year 2015 (Annexure-I) and at Sl. No. 885 in the Voter List of the year 2019 (Annexure-J) and in that, the number of the Voter ID Card is mentioned to be ARE 1929940 (Annexure-A/1). It shows that the original Voter ID Card No. ARE 1929940 (Annexure-A/1) must have been issued much earlier to 16.12.2022 as it has been reflected in the Voter list of the year 2015 (Annexure-I) and in the Voter List of the year 2019 (Annexure-J). But the original is not placed on file to ascertain the date of its issuance and more specifically whether it was issued on the cutoff date of 01.01.2015 or on some other subsequent date in that year.

29. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

30. 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. C-176 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the Ration Card (Annexure-K), which has been issued in favour of his father Jeetan on 15.02.1993 and the name of the Appellant/Claimant has also been mentioned. 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 Jhuggi No. C-176. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill

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the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

31. The Appellant/Claimant has tendered his e-Shram Card (Annexure-D), Voter ID Card No. ARE 1346733 (Annexure-E), Aadhar Card (Annexure-F) & PAN Card of his wife Jharna as well as the Gas connection bill (Annexure-H) and Passbook of PNB (Annexure-L).

32. It is pointed out that the Voter ID Card No. ARE 1346733 (Annexure-E) of his wife Jharna has been issued on 27.10.2008. The Gas connection bill (Annexure-H) shows that the connection has been taken by the Appellant/Claimant on 20.11.2013. The Passbook of PNB (Annexure-L) shows that the Appellant/Claimant had opened the account on 26.08.2006. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because the abovementioned 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 separate Ration Card on the cut- off date of 01.01.2015 and further his name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

33. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut- off date of 01.01.2015 and his name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). The documents, Annexure-A to Annexure-L, 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.

34. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut- off date of 01.01.2015 issued on the address of first floor of jhuggi No. C-176 regarding which he is seeking allotment from DDA and his name also does not appear in the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

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35. 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. 385/36/51.1/957 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

36. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 509 of 2023

Date of Institution: 02.12.2022

Date of Order: 03.08.2023

Present: Appellant/Claimant Priyanka W/o Raj Kumar Singh D/o Mul Chand

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-543, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-543 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/18/60.1/783 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by

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the same, the present Appeal No. 509 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 06.07.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-543 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on 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 as per the policy guidelines issued by DD.

7. The statement of the Appellant/Claimant, Priyanka, has been recorded before us on 06.07.2023 wherein she has stated that her in-laws, Chetan Singh & Saroj Kumari, are having three sons, Rajiv, Raj Kumar & Akash and one daughter Asha. Akash & Asha are

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unmarried. Rajiv is married with Rosy and they are having one son Love and they are living on rent in Noida, Uttar Pradesh. Raj Kumar is married with Priyanka (Appellant/Claimant) and having three children, Lavanya, Tanishka & Lakshya.

8. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. C-543 and it comprises of one room on each floor and a bamboo ladder is placed outside in the gali for going to the upper floor.

9. The Appellant/Claimant has stated that her in-laws, Chetan Singh & Saroj Kumari, along with their unmarried children, Akash & Asha are living on the ground floor of the Jhuggi No. C-543 and regarding that DDA has made allotment in favour of her mother-in-law, Saroj Kumari. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that she along with her husband Raj Kumar and all the three children; Lavanya, Tanishka & Lakshya, is living on the first floor of the Jhuggi No. C-543. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. C-543, but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 509 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-K, in support of her claim and prayed that DDA be directed to make allotment in her favour.

11. DDA has furnished the survey records along with three video clips of Jhuggi No. C-543. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 19.07.2023 wherein the Appellant/Claimant has stated that the first video clip pertains to the ground floor of the Jhuggi No. C-543 in which a bamboo ladder placed outside in the gali for going to the upper floor is seen and further, her mother-in-law Saroj is seen and her room & kitchen are also seen. The other two video clips pertain to the first floor in which also the bamboo ladder placed outside in the gali and used for going to the upper floor is also seen the Appellant/Claimant Priyanka is seen on the first floor of Jhuggi No. C-543 and further, her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. C-543 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the ground floor has been used for residential purposes by mother-in-law, Saroj Kumari, whereas the first floor is used for residential purposes by the Appellant/ Claimant.

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12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-543 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

13. 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 first floor 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-K, 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 separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/18/60.1/783 dated 07.11.2022.

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.

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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.
- 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

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

17. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18. As already pointed out above, condition contained in Part–B Para 10 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."

19. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

20. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required

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to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

21. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

22. The Appellant/Claimant has tendered her Voter ID Card No. ARE 2170306 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter List of the year 2019 (Annexure-K).

23. It is pointed out that the Voter ID Card No. ARE 2170306 (Annexure-A) has been issued on 10.09.2018, much after the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 1312 in the Voter List of the year 2019. Since the Voter ID Card No. ARE 2170306 (Annexure-A) of the Appellant/Claim has been issued on 10.09.2018, much after the cut off date of 01.01.2015, therefore, the question of her name appearing in the Vote List of the year 2012, 2013, 2014 and 2015 (prior to 01-01-2015) does not arise at all. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 and her name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

24. 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. C-543 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered her Ration Card (Annexure-I), which has been issued in the name of her mother-in-law, Saroj Devi, but the name of the Appellant/Claimant has not been mentioned. The Appellant/Claimant has tendered an Application dated 15.03.2022 for

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issuance of Ration Card. It is pointed out that till now no Ration Card has been issued on the basis of application (Annexure-H). This application is also of no relevance because the policy/guidelines of DDA prescribes that the dweller claiming allotment against the first floor from DDA must possess a separate Ration Card on the cut off date of 01.01.2015. 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. C-543 regarding which she 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

25. The Appellant/Claimant has tendered the Passbook of Bank of Baroda (Annexure-D), Voter ID Card No. ARE 1177526 (Annexure-E), Aadhar Card (Annexure-F) & PAN Card (Annexure-G) of her husband Raj Kumar and Electricity Bill (Annexure-J).

26. It is pointed out that the Passbook of Bank of Baroda (Annexure-D) shows that the account has been opened by the Appellant/Claimant on 14.03.2022. The Voter ID Card No. ARE 1177526 (Annexure-E) of Raj Kumar shows that it has been issued on 10.01.2022. This shows that neither the Appellant/Claimant not her husband were having Voter ID Cards on the cut off date of 01.01.2015 issued on the address of Jhuggi No. C-543, Bhoomiheen Camp. Further, the Electricity Bill (Annexure-J) shows that the electricity connection has been taken on 09.06.2008 by her father-in-law, Chetan, on the address of ground floor of the Jhuggi No. C-543 thereby showing that the Appellant/Claimant was not having an electricity connection on the first floor of the Jhuggi No. C-543 regarding which she is claiming allotment from DDA. It is pointed out that the above-mentioned document is 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 cut- off date of 01.01.2015 and her name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and further the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor.

27. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 and her name also does not appear in the

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Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and further the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-K, 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.

28. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 and her name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and further the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-543 regarding which she is claiming allotment from DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

29. 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. 385/18/60.1/783 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

30. 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.

3/8/2023

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

3/8/2023

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

3/8/2023

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 561 of 2023

Date of Institution: 06.12.2022

Date of Order: 03.08.2023

Present: Appellant/Claimant Gautam S/o Sukh Lal

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-232, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-232 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No.

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385/36/63.2/961 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 561 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 10.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-Q, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-232 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 upper floor as per the policy guidelines issued by DD.

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7. The statement of the Appellant/Claimant, Gautam, has been recorded before us on 10.07.2023, wherein he has stated that his parents, Sukhlal & Meena, are having two sons, Meer & Gautam and one daughter, Namita. Sukhlal had expired about 12 years ago. All the children are married. Namita is married with Anil and she is living in her matrimonial home at Tughladquabad. Meer is married with Saraswati and having four children, Saurabh, Monika, Kanika & Deepika. Gautam (Appellant/Claimant) is married with Babita and having three children, Gaurav, Visakha & Sachin.

8. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi No. C-232, and it comprises of one room on each and a pucca staircase has been constructed outside in the gali for going to the upper floor.

9. The Appellant/Claimant has stated that his mother Meena is living on the ground floor of Jhuggi No. C-232 and regarding that DDA has made allotment in favour his mother Meena. Meer along with his family is living on the second floor of Jhuggi No. C-232 but he has not claimed allotment from DDA. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that he along with his wife Babita and all the three children, Gaurav, Visakha & Sachin, is living on the first floor of the Jhuggi No. C-232. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. C-232 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 561 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-Q, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished the survey record along with two video clips pertaining to Jhuggi No. C-232. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 10.07.2023 wherein the Appellant/Claimant has stated that the first video clip pertains to the ground floor of Jhuggi No. C-232 in which his mother Meena is seen and her room & kitchen are also seen. There is no video clip of the second floor of Jhuggi No. C-232. The second video clip pertains to the second floor of Jhuggi No. C-232 in which Appellant/Claimant is seen and further, he is holding a slate in which " Gautam Adhikari, C-232/S" has been written and further, the

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Appellant/Claimant is heard stating that he is living on the second floor and his room & kitchen are also seen.

12. It is pointed out that the Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. C-232 but he has got the survey conducted of second floor of Jhuggi No. C-232. Further, as mentioned above in the video clip prepared by the survey team of DDA he is heard stating he is living on the second floor of Jhuggi No. C-232 and furthermore, he is holding a slate "Gautam Adhikari, C-232/S" is written. This creates doubt and suspension. The survey record and the video clip accordingly, shows that the Jhuggi No. C-232 is triple storey structure and the appellant/Claimant along with his family is living on the second floor of Jhuggi No. C-232 but he has wrongly claiming allotment from DDA against the first floor of the Jhuggi No. C-232. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a triple storey Jhuggi No. C-232 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by his mother Meena whereas the second floor is used for residential purposes by Gautam (Appellant/ Claimant of Appeal No. 561 of 2023).

13. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. C-232 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the second floor of the said Jhuggi for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & 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 second floor 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-Q, 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

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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 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. 385/36/63.2/961 dated 07.11.2022.

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 is being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

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

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

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DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. It is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part–B Para 10 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. 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

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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.

21. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card 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: -

> *"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.*

22. 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 with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

23. 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"

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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) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

24. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015

GIST OF THE POLICY

25. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

26. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the

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second floor, is entitled to seek allotment from DDA and further 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.

27. 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 he 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.

28. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

29. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), PAN Card (Annexure-D), Voter List of the year 2014 (Annexure-P) and Voter List of the year 2019 (Annexure-Q).

30. It is pointed out that the Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B). The first Voter ID Card No. DL/03/035/249493 (Annexure-A) has been issued on 23.02.1995 and the second Voter ID Card No. ARE 1173475 (Annexure-B) has been issued on 27.10.2008, thereby, showing that both the Voter ID Cards have been issued much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 1018 in the Voter List of the year 2014 (Annexure-P) and at Sl. No. 1105 in the Voter List of the year 2019 (Annexure-Q) and further, the number of his Voter ID Card is mentioned to be ARE 1173475 in both the Voter Lists. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 & also in the year of survey.

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31. 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. C-232 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 Jhuggi No. C-232. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

32. The Appellant/Claimant has tendered his Driving License (Annexure-E), the Passbook of PNB (Annexure-F) as well as Voter ID Card No. CXY 1074699 (Annexure-G), Aadhar Card (Annexure-H) & PAN Card (Annexure-I) of his wife Babita and Aadhar Card (Annexure-M) of his son Gaurav, Aadhar Card (Annexure-N) of his son Sachin and Aadhar Card (Annexure-O) of his daughter Visakha, the Electricity Bill (Annexure-J), the Passport (Annexure-K), the Passbook of Union Bank of India (Annexure-L).

33. It is pointed out that the Driving License (Annexure-E) of the Appellant/Claimant has been issued on 22.10.2001. The Passbook of PNB (Annexure-F) shows that the Appellant/Claimant had opened the account on 31.03.2000 and the Passbook of Union Bank of India (Annexure-L) shows that the Appellant/Claimant had opened the account on 03.06.2017. The Voter ID Card No. CXY 10714699 (Annexure-G) of his wife Babita has been issued on 07.03.2002. The Electricity Bill (Annexure-J) shows that the electricity connection has been taken by his mother Meena on 06.06.2008 on the address of ground floor of Jhuggi No. C-232, thereby, showing that the Appellant/Claimant was not having electricity connection on the second floor of the Jhuggi No. C-232 regarding which he is claiming allotment from DDA. The Passport (Annexure-K) of the Appellant/Claimant has been issued on 04.05.2011. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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34. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and further he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy. The documents, Annexure-A to Annexure-Q, 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. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. C-232 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

35. 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. 385/36/63.2/961 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

36. 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.

3/8/2023	S Ahlawat 3/8/2023	Tiwary 3/8/2023
(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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 582 of 2023

Date of Institution: 27.12.2022

Date of Order: 03.08.2023

Present: Appellant/Claimant Rajneesh Kumar Singh S/o Virendra Singh

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-199, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-199 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No.

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385/26/49.1/842 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 582 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 07.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-F, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-199 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card not verified / / No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DDA.

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7. The statement of the Appellant/Claimant, Rajneesh Kumar, has been recorded before us on 07.07.2023, wherein he has stated that his parents, Virender Singh & Indu, are having one son Rajneesh and two daughters, Mamta & Sushma. All the children are married. Mamta is living in her matrimonial home in Jhuggi No. C-163 in Bhoomiheen Camp, Kalkaji and from the side of her in-laws Mamta had got allotment from DDA. Sushma is married with Ranjeet and she is living in her matrimonial home in Gazibad, Uttar Pradesh. Rajneesh (Appellant/Claimant) is married with Pratima and having one son Saurya.

8. The Appellant/Claimant has stated that he is having a double storey Jhuggi No. C-199 in Bhoomiheen Camp, Kalkaji and it comprises of one room on each floor. Previously his parents were living with him. His father was ill and accordingly they have converted the room on the first floor into bathroom and the family started living on the first floor. The Appellant/Claimant has sought allotment from DDA against the double storey Jhuggi No. C-199 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 582 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-F, in support of his claim and prayed that DDA be directed to make allotment in his favour.

9. DDA has furnished the survey record along with three video clips pertaining to Jhuggi No. C-199. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 07.07.202 wherein the Appellant/Claimant has stated that the first video clip pertains to the ground floor of Jhuggi No. C-199 in which an iron ladder is placed outside in the gali for going to the upper floor is seen and further, a bathroom on the ground floor is seen. The two video clips pertain to the first floor of the Jhuggi No. C-199 in which the Appellant/Claimant is seen and his room & kitchen are also seen on the first floor. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. C-199 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and it used for residential purposes by the Appellant/ Claimant.

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10. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-199 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the said Jhuggi for residential purposes.

11. 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 his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the said Jhuggi No. C-199 as per the policy guidelines issued by DDA.

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

13. 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 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. 385/26/49.1/842 dated 07.11.2022.

14. 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 :-**

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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.

<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.

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- 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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

15. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

16. As already pointed out above, condition contained in Part–B Para 10 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."

17. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued

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before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

18. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

19. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

20. The Appellant/Claimant has tendered his Voter ID Card No. ARE 2597458 (Annexure-A) and Aadhar card (Annexure-B).

21. It is pointed out that the Voter ID Card No. ARE 2597458 (Annexure-A) has been issued on 20.04.2022, much after the cutoff date 01.01.2015 and accordingly the question of his name appearing in the Voter List of 2012 to 2019 does not arise. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 and his 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. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

22. 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. C-199 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered Ration Card (Annexure-F), which has been issued in favour of his father Virender on 06.04.2010, in which neither the name of any of the family members nor that of the present Appellant/Claimant has been mentioned. 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 Jhuggi No. C-199. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

23. The Appellant/Claimant has tendered Voter ID Card No. ARE 1172485 (Annexure-C) & Aadhar Card (Annexure-D) of his father Virender and the Passbook of Indian Overseas Bank (Annexure-E).

24. It is pointed out that the Voter ID Card No. ARE 1172485 (Annexure-C) of his father Virender has been issued on 27.10.2008. It is pointed out that the Appellant/Claimant has categorically stated that his parents have shifted to Azamgarh, Uttar Pradesh, about 8-10 years ago and accordingly on the cutoff date 01.01.2015 his father Virender was not living in Jhuggi No. C-199, Bhoomiheen Camp, Kalkaji, regarding which the Appellant/Claimant is claiming allotment from DDA. Hence, both the documents (Annexure-C & Annexure-D) are not relevant. The Passbook of Indian Overseas Bank (Annexure-E) shows that the Appellant/Claimant had opened the account on 13.05.2015, 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 & separate Ration Card on the cut- off date of 01.01.2015 and his 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. Therefore, we have no hesitation in holding that

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

25. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card & separate Ration Card on the cut- off date of 01.01.2015 and his 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. The documents, Annexure-A to Annexure-F, 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.

26. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card & separate Ration Card on the cut- off date of 01.01.2015 and his 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. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

27. 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. 385/26/49.1/842 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

28. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 726 of 2023

Date of Institution: 23.02.2023

Date of Order: 03.08.2023

Present: Appellant/Claimant Sanjay S/o Vijay

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-15, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-15 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/59/026.G/1169

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dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 726 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 21.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-15 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DD.

7. The statement of the Appellant/Claimant, Sanjay, has been recorded before us on 21.07.2023, wherein he has stated that his parents, Vijay & Mamta, are having three

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sons, Balram, Sanjay & Raju. Vijay had expired on 22.03.2014 and his Death Certificate is (Annexure-G). Mamta had expired on 23.09.2018 and her Death Certificate is (Annexure-H). Raju is unmarried. Balram is married with Priyanka and having one daughter Tiya. Sanjay (Appellant/ Claimant) is married with Savita and having one son Rudraksh.

8. The Appellant/ Claimant has stated that his family is having a double storey Jhuggi No. C-15 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

9. The Appellant/Claimant has stated that his brother Balram along with his wife Priyanka and daughter Tiya and also with his unmarried brother Raju is living on the ground floor of Jhuggi No. C-15 and regarding that DDA has made allotment in favour of his brother Balram. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that he along with his wife Savita and son Rudraksh is living on the first floor of the Jhuggi No. C-15. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No.C-15 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 726 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document 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 the survey record along with two video clips pertaining to Jhuggi No. C-15. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 21.07.2023 wherein the Appellant/Claimant has stated that the first video clip pertains to the ground floor of the Jhuggi No. C-15 in which his brother Balram is seen and further his room & kitchen are also seen. The second video clip pertains to the first floor of Jhuggi No. C-15 in which the Appellant/Claimant Gautam is seen and his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. C-15 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential

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purposes by his brother Balram & his family whereas the first floor is used for residential purposes by Sanjay (Appellant/ Claimant of Appeal No. 726 of 2023).

12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-15 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

13. 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 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 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-L, in support of his claim and prayed that DDA be directed to make allotment in his 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 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 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. 385/59/026.G/1169 dated 07.11.2022.

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

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

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

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

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- 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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

17. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18. As already pointed out above, condition contained in Part–B Para 10 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."

19. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

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GIST OF THE POLICY

20. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

21. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

22. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1166818 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2008 (Annexure-J), Voter List of the year 2012 (Annexure-K) and Voter List of the year 2019 (Annexure-L).

23. It is pointed out that the Voter ID Card No. ARE 1166818 (Annexure-A) has been issued on 27.10.2008, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 327 in the Voter List of the year 2008 (Annexure-J), at Sl. No. 185 in the Voter List of the year 2012 (Annexure-K) and at Sl. No. 250 in the Voter List of the year 2019 (Annexure-L). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2008, 2012 & also in the year of survey.

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24. 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. C-15 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered three Ration Cards (Annexure-F, Annexure-I & Annexure-M). The old Ration Card (Annexure-M) has been issued in favour of his father Vijay on 23.06.1999 and the name of the Appellant/Claimant is also mentioned. The second Ration Card (Annexure-F) has been issued in favour of his father Vijay on 30.04.2010 but the name of the Appellant/Claimant is not mentioned. The third Ration Card (Annexure-I) has been issued in favour of his mother Mamta on 30.06.2015 and the name of the Appellant/Claimant is also mentioned. 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 Jhuggi No. C-15. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

25. The Appellant/Claimant has tendered the Passbook of PNB (Annexure-D) and the Electricity Bill (Annexure-E).

26. It is pointed out that the Passbook of PNB (Annexure-D) shows that the Appellant/Claimant had opened the account on 11.02.2016. The Electricity Bill (Annexure-E) shows that the connection has been taken by his father Vijay on the ground floor of the Jhuggi No. C-15 on 15.07.2008, thereby, showing that the Appellant/Claimant was not having the electricity connection on the first floor of the Jhuggi No. C-15 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to

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Annexure-L, 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 separate Ration Card on the cutoff date of 01.01.2015 in spite of the fact that he is claiming allotment against the upper floor.

28. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-15 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, which make separate Ration Card a mandatory document for the upper floor.

29. 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. 385/59/026.G/1169 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

30. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 470 of 2023

Date of Institution: 30.11.2022

Date of Order: 04.08.2023

Present: Appellant/Claimant Sangeeta Haldar W/o Raju Haldar D/o Sapan Gayan

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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. B-137, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-137 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No.

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385/61/62.1/1294 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 470 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 27.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-137 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on 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 as per the policy guidelines issued by DD.

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7. The statement of the Appellant/Claimant, Sangeeta Haldar, has been recorded before us on 27.07.2023 wherein she has stated that her parents, Sapan & Parul Gayan, are having one son, Pradip and two daughters, Sangeeta & Supriya. Pradip is unmarried. Supriya is married with Suraj and she is living in her matrimonial home in Laxmi Nagar, Delhi. Sangeeta (Appellant/Claimant) is married with Raju and having one son Aditya and she is living with her husband Raju in Bhoomiheen Camp, Kalkaji.

8. The Appellant/Claimant has stated that her parents, Sapan Gayan & Parul Gayan, are having a triple storey Jhuggi No. B-137 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor. Her father is having a grocery shop on the ground floor of the Jhuggi No. B-137 whereas her parents along with their unmarried son Pradip are living on the first floor of the Jhuggi No. B-137 and regarding that DDA has made allotment in favour of her mother, Parul Gayan. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that she along with her husband Raju and her son Aditya, is living on the second floor of Jhuggi No. B-137. The Appellant/Claimant has sought allotment against the second floor of the Jhuggi No. B-137 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No.470 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-J, in support of her claim and prayed that DDA be directed to make allotment in her favour.

10. DDA has furnished the survey record along with seventeen video clips pertaining to Jhuggi No. B-137. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 27.07.2023 wherein the Appellant/Claimant has stated that the six video clip pertain to the ground floor of the Jhuggi No. B-137 in which the grocery shop of her father, Sapan Gayan, is seen and further, Sapan Gayan, is also seen present there. The next five video clips pertain to the first floor of the Jhuggi No. B-137 in which her mother, Parul Gayan, is seen and further, her room & kitchen are also seen. The next six video clips pertain to the second floor of the Jhuggi No. B-137 in which the Appellant/Claimant is seen and further her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey

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records/video clips has duly proved that a triple storey Jhuggi No. B-137 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the ground floor has been used for running a grocery shop by her father Sapan Gayan and first floor is used for residential purposes by her parents, Sapan Gayan & Parul Gayan, and the second floor is used for residential purposes by the Appellant/ Claimant.

11. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. B-137 Bhoomiheen Camp is a pucca structure and the ground floor has been used for running a grocery shop by her father Sapan Gayan and first floor is used for residential purposes by her parents, Sapan Gayan & Parul Gayan, and the second floor is used for residential purposes by the Appellant/ Claimant.

12. 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 as per the policy guidelines issued by DDA.

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

14. 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 Card on the cut off date of 01.01.2015.

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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 he 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. 385/37/63.2/1020 dated 07.11.2022.

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 is 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

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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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

16. As per Part–B Para 6 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. 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

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out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17. It is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part–B Para 10 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."

18. 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.

19. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card 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"

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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: -

"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.

20. 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 with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

21. 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

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against first floor (Upper Floor) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

22. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015

GIST OF THE POLICY

23. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

24. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further 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.

25. 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

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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 claimed allotment against the second floor, which is not included in the definition of upper floor under Part–B Para 10 of the policy.

26. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.

27. The Appellant/Claimant has tendered her Voter ID Card No. ARE1152404 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-I) and Voter List of the year 2019 (Annexure-J).

28. It is pointed out that the Voter ID Card No. ARE 1152404 (Annexure-A), has been issued on 27.10.2008, much prior to the cutoff date 01.01.2015 and the name of the Appellant/Claimant appears at Sl. No. 957 in the Voter List of the year 2014 (Annexure-I) and at Sl. No. 1094 in the Voter List of the year 2019 (Annexure-J). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and her name also appears in at least on the voter list of the year's 2014 & also in the year of survey.

29. The Appellant/Claimant has admitted that she 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. B-137 regarding which she 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 Jhuggi No. B-137. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

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30. The Appellant/Claimant has tendered Voter ID Card No. ARE 1146588 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of her husband Raju as well as the Passbook of Indian Bank (Annexure-G) and the Electricity Bill (Annexure-H).

31. It is pointed out that the Voter ID Card No. ARE 1146588 (Annexure-D) of her husband Raju has been issued on 27.10.2008. The Passbook of Indian Bank (Annexure-G) shows that the Appellant/Claimant had opened the account on 28.07.2008. The Electricity Bill (Annexure-H) shows that the electricity connection has been taken by his father, Sapan Gayan, on 14.06.2008 on the ground floor of the Jhuggi No. B-137 thereby showing that the Appellant/Claimant was not having electricity connection on the second floor of the Jhuggi No. B-137 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 separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

32. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of second floor of the Jhuggi No. B-137 regarding which she is claiming allotment from DDA and further she has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy. The documents, Annexure-A to Annexure-J, 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. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. B-137 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further she was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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33. 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. 385/61/62.1/1294 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

34. 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.

4/8/2023

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

4/8/2023

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

4/8/2023

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 545 of 2023

Date of Institution: 05.12.2022

Date of Order: 04.08.2023

Present: Appellant/Claimant Anil Jha S/o Shiv Nandan Jha

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-82/A Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-82/A was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/62/085.G/1351

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dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 545 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 06.07.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-82/A was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DDA

8. The statement of the Appellant/Claimant, Anil Jha, has been recorded before us on 06.07.2023, wherein he has stated that his parents, Shiv Nandan & Ahilya, are having

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two sons, Anil & Sunil. Shiv Nandan had expired long ago whereas Ahilya is living in her native village in District Madhubani, Bihar. Sunil is married with Vineeta and having three children, Anshu, Aarti & Munni. Anil Jha (Appellant/Claimant) is married with Mamta and having three children, Ritu, Kamlesh & Vimlesh.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. C-82/A in Bhoomiheen Camp and it comprises of one room on each floor and an iron ladder is placed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that his brother Sunil along with his wife Vineeta and all the children is living on the ground floor of Jhuggi No. C-82/A and regarding that DDA has made allotment in favour of his brother Sunil. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Mamta and all the children, Ritu, Kamlesh & Vimles, is living on the first floor of the Jhuggi No. C-82/A. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. C-82/A but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 545 of 2023 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.

12. DDA has furnished the survey record along with two video clips pertaining to Jhuggi No. C-82/A. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 06.07.2023 wherein the Appellant/Claimant has stated that first video clip pertains to the ground floor in which his sister-in-law, Vineeta W/o Sunil, is seen and further, her room & kitchen are also seen. The second video clip pertains to the first floor in which an iron ladder placed outside in the gali and is being used for going to the first floor is seen and further, Mamta who is wife of Appellant/Claimant, Anil, is seen on the first floor of Jhuggi No. C-82/A and her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No.C-82/A was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by his parents, Shiv Nandan and Ahilya, whereas the first floor is used for residential purposes by Anil Jha (Appellant/ Claimant of Appeal No. 545 of 2023).

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13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-82/A Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & 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 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 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 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 separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/62/085.G/1351 dated 07.11.2022.

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.

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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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

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GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

22. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

23. 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.

24. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), Pan Card (Annexure-D), Voter List of the year 2014 (Annexure-G) and Voter List of the year 2019 (Annexure-H).

25. It is pointed out that the Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B). The first Voter ID Card No. DL/03/035/249066 (Annexure-A) has been issued on 23.02.1995 and the second Voter ID Card No. ARE 1565100 (Annexure-B) has been issued on 08.02.2013. Both the Voter ID Cards have been issued much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 467 in the Voter List of the year 2014 (Annexure-G) and at Sl. No. 511 in the Voter List of the year 2019 (Annexure-H). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the

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cut- off date of 01.01.2015 and his name also appears in the Voter List of the year 2014 & of the year of survey.

26. 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. C-82/A 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 Jhuggi No. C-82/A. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

27. The Appellant/Claimant has tendered his Passbook of Allahabad Bank (Annexure-E), the Electricity Bill (Annexure-F).

28. It is pointed out that the Passbook of Allahabad Bank (Annexure-E) shows that the Appellant/Claimant had opened the account on 03.01.2020, much after the cutoff date 01.01.2015. The Electricity Bill (Annexure-F) shows that Sunil, brother of the Appellant/Claimant, had taken the electricity connection on the ground floor of Jhuggi No. C-82/A on 18.06.2008, thereby, showing that the Appellant/Claimant was not having a separate Electricity connection on the first floor of the Jhuggi No. C-82/A, regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

29. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-H, 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 separate Ration Card

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on the cutoff date of 01.01.2015 in spite of the fact that he is claiming allotment against the upper floor.

30. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-82/A 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, which make separate Ration Card a mandatory document for the upper floor.

31. 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. 385/62/085.G/1351 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

32. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 547 of 2023

Date of Institution: 05.12.2022

Date of Order: 04.08.2023

Present: Appellant/Claimant Anita Mondal D/o Debu Mondal

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-215, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-215 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No.

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385/67/4.1F/1500 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 547 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 26.07.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-215 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on 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 as per the policy guidelines issued by DD.

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7. The statement of the Appellant/Claimant, Anita Mondal, has been recorded before us on 26.07.2023, wherein she has stated that her parents, Debu & Deepali, are having one son Abhinav and one daughter Anita (Appellant/Claimant). Abhinav is unmarried whereas Anita is married with Somnath and having one daughter Shravanika.

8. The Appellant/Claimant has stated that her parents, Debu & Deepali, are having a triple storey Jhuggi No. A-215 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

9. The Appellant/Claimant has stated that her parents, Debu & Deepali, along with their unmarried son Abhinav is living on the ground floor of Jhuggi No. A-215 whereas the room on the second floor is jointly used by the them as well as by the Appellant/Claimant and regarding that DDA has made allotment in favour of her mother Deepali. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that she along with her husband Somnath and daughter Shravanika is living on the first floor of the Jhuggi No. A-215 whereas the room on the second floor is jointly used by her as well as by her parents, Debu & Deepali. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. A-215 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal 547 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-L, in support of her claim and prayed that DDA be directed to make allotment in her favour.

11. DDA has furnished the survey record along with six video clips pertaining to Jhuggi No. A-215. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 26.07.2023 wherein the Appellant/Claimant has stated that the first video clip pertains to the ground floor of Jhuggi No. A-215 in which her mother Deepali is seen and further her room & kitchen are also seen. The next five video clips pertain to the first floor of Jhuggi No. A-215 in which the Appellant/Claimant is seen and further her room & kitchen are also seen and further a pucca staircase, which is going from the ground floor to the first floor is seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a triple storey Jhuggi No. A-215 was in existence in the Bhoomiheen Camp on the cutoff

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date of 01.01.2015 and the ground floor has been used for residential purposes by parents, Debu & Deepali, and the first floor is used for residential purposes by the Appellant/ Claimant whereas the room on the second floor is jointly used by the Appellant/Claimant as well as by her parents, Debu & Deepali.

12. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. A-215 Bhoomiheen Camp is a pucca structure and the ground floor has been used for residential purposes by parents, Debu & Deepali, and the first floor is used for residential purposes by the Appellant/ Claimant whereas the room on the second floor is jointly used by the Appellant/Claimant as well as by her parents, Debu & Deepali.

13. 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 first floor 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-L, 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 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 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. 385/67/4.1F/1500 dated 07.11.2022.

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

> **"Part-B**
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
> 10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
> 11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.
>
> **As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:**
>
> - 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.

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- 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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

17. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18. As already pointed out above, condition contained in Part–B Para 10 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."

19. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have

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

GIST OF THE POLICY

20. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

21. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

22. The Appellant/Claimant has tendered her Voter ID Card No. ARE 1345018 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-K) and Voter List of the year 2019 (Annexure-L).

23. It is pointed out that the Voter ID Card No. ARE 1345018 (Annexure-A) has been issued on 27.10.2008, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 239 in the Voter List of the year 2014 (Annexure-K) and at Sl. No. 295 in the Voter List of the year 2019 (Annexure-L). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 & also in the year of survey.

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24. The Appellant/Claimant has admitted that she 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. A-215 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered Ration Card (Annexure-J), which has been issued in favour of her mother, Deepali, and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. 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 Jhuggi No. A-215. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

25. The Appellant/Claimant has tendered the Electricity Bill (Annexure-D), the Passbook of PNB (Annexure-E), Voter ID Card No. ARE 1770767 (Annexure-F) & Aadhar Card (Annexure-G) of her mother Deepali as well as the Aadhar Card (Annexure-H) & PAN Card (Annexure-I) of her husband Somnath.

26. It is pointed out that the Electricity Bill (Annexure-D) shows that her mother Deepali had taken the electricity connection on 19.03.2009 on the ground floor of Jhuggi No. A-215, thereby showing that the Appellant/Claimant was not having electricity connection on the first floor of Jhuggi No. A-215 regarding which she is claiming allotment from DDA. The Passbook of PNB (Annexure-E) shows that the Appellant/Claimant had opened the account on 13.06.2009. The Voter ID Card No. ARE 1770767 (Annexure-F) of her mother Deepali has been issued on 10.09.2013 but it is pointed out that these documents are not relevant as DDA has made allotment in favour of her mother Deepali against the ground floor of Jhuggi No. A-215. 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 separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-L, 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 separate Ration Card on the cutoff date of 01.01.2015 in spite of the fact that she is claiming allotment against the upper floor.

28. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-215 regarding which she is claiming allotment from DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

29. 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. 385/67/4.1F/1500 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

30. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 563 of 2023

Date of Institution: 06.12.2022

Date of Order: 04.08.2023

Present: None for the Appellant/ Claimant Sandeep Gain S/o Ara Bindu Gain

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-237, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-237 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/37/79.1/1027 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the

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same, the present Appeal No. 563 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-237 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists 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 his by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as he has never appeared

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before us except on one date, i.e, 06.02.2023. The perusal of the Zimni Orders shows that the Appeal was put up before us for the first time on 06.02.2023 and after conducting oral enquiry the matter was fixed for 27.03.2023 for tendering of documents by the parties in favour of their respective claim/stand. But the Appellant/ Claimant had failed to appear on 27.03.2023 and accordingly the Notice for Appearance was issued for 26.04.2023 to procure the appearance of the present Appellant/ Claimant. But he had failed to appear on 26.04.2023. Fresh notice was issued on 26.04.2023 to procure his presence for 29.05.2023. But he had failed to appear on 29.05.2023 and accordingly fresh notice was issued on 05.06.2023 to procure his presence. But the file was taken up on 30.05.2023 and the appeal was fixed for 26.07.2023 to give priority to other cases and fresh notice was issued to procure his presence for 26.07.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 26.07.2023 in spite of due service.

7. On 26.07.2023 fresh notice was issued for 27.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

8. However, still none appeared on 27.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 28.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

9. However, still none appeared on 28.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 01.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

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10. However, still none appeared on 01.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 02.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

11. However, still none appeared on 02.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 03.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

12. However, still none appeared on 03.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 04.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

13. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 04.08.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 563 of 2023 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether he is entitled for alternate allotment as per policy guidelines issued by DDA.

14. The bare perusal of the Policy shows that for claiming allotment for ground floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013,

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2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and 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

15. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and 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. The documents available on file 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.

16. In view of the matter the present we have no hesitation in holding that 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. 385/37/79.1/1027 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 563 of 2023 instituted on 06.12.2022 is dismissed being devoid of any merit.

17. 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.

4/8/2023

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

4/8/2023

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

04/8/2023

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 594 of 2023

Date of Institution: 07. 12.2022

Date of Order: 04.08.2023

Present: Appellant/Claimant Nayan Tara W/o Sanjay D/o Manoranjan Das

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-385, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-385 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer,

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Bhoomiheen Camp, duly communicated its order bearing No. 385/68/69.1/1564 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 594 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 07.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-385 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on 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 as per the policy guidelines issued by DDA.

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7. The statement of the Appellant/Claimant, Nayan Tara, has been recorded before us on 07.07.2023 wherein she has stated that her in-laws, Sameer & Malti, are having two sons, Sandeep & Sanjay. Sameer had expired in the year 2019. Sandeep is unmarried. Sanjay is married with Nayan Tara (Appellant/Claimant) and having two sons, Sujal & Rohan.

8. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. C-385 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

9. The Appellant/Claimant has stated that her in-laws, Sameer (Until his death in 2019) & Malti, and their unmarried son Sandeep is living on the ground floor of the Jhuggi No. C-385 and regarding that DDA has made allotment in favour of his mother-in-law Malti. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that she along her husband Sanjay and both the children, Sujal & Rohan, is living on the first floor of the Jhuggi No. C-385. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. C-385 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 594 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document 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 the survey record along with three video clips pertaining to Jhuggi No. C-385. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 07.07.2023 wherein the Appellant/Claimant has stated that two video clips pertain to the ground floor of Jhuggi No. C-385 in which her mother-in-law, Malti, is seen and further, her room & kitchen are also seen. The third video clip pertains to the first floor of the Jhuggi No. C-385 in which a pucca staircase, which is going from outside in the gali to the upper floor is seen and further, the Appellant/Claimant Nayan Tara is seen on the first floor and her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proves that a double storey Jhuggi No.C-385 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for

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residential purposes by her in-laws, Sameer (Until his death in 2019) & Malti, whereas the first floor is used for residential purposes by Nayan Tara (Appellant/ Claimant of Appeal No. 594 of 2023).

12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-385 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

13. 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 first floor 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-N, in support of her claim and prayed that DDA be directed to make allotment in her favour.

15. 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 first floor as per the policy guidelines issued by DDA.

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

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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. 385/68/69.1/1564 dated 07.11.2022.

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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

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

20. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

22. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

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23. The Appellant/Claimant has tendered her Voter ID Card No. ARE 1345818 (Annexure-A), Aadhar Card (Annexure-B) & PAN Card (Annexure-C).

24. It is pointed out that the Voter ID Card No. ARE 1345818 (Annexure-A) has been issued on 25.03.2019. It is pertinent to point out that the Appellant/Claimant has categorically stated that initially she had got the Voter ID Card No. ARE 1345818 issued on the address of her parents bearing Jhuggi No. B-393, Bhoomiheen Camp, Kalkaji. But the original Voter ID Card is not placed on file and accordingly the date of issuance could not be ascertained. But in the year 2019 she had got the address changed from B-393 to C-385, Bhoomiheen Camp, Kalkaji and consequently the Voter ID Card No. ARE 1345818 (Annexure-A) was got issued on 25.03.2019 on the new address of C-385, Bhoomiheen Camp, Kalkaji. This accordingly shows that the Appellant/Claimant was not having Voter ID Card on the cutoff date 01.01.2015 issued on the address of the Jhuggi No. C-385 regarding which she is claiming allotment from DDA because at that relevant time her address was reflected to be bearing Jhuggi No. B-393, Bhoomiheen Camp, Kalkaji. Accordingly, Voter ID Card No. ARE 1345818 (Annexure-A) is not relevant. This also explains as to why the Appellant/Claimant has not tendered the Voter List of the year 2012 to 2019 because the Appellant/Claimant very well knew that during these years she was having Voter ID Card issued on the address of Jhuggi No. B-393 in Bhoomiheen Camp, Kalkaji belonging to her parents and not on the address of Jhuggi No. C-385 against which she is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 on the address of Jhuggi No. C-385 and 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.

25. The Appellant/Claimant has admitted that she 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. C-385 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the Ration Card (Annexure-L), which has been issued on 14.11.2014, in favour of her mother-in-law Malti and in that the name of her husband Sanjay is mentioned but the name of the present Appellant/Claimant is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of

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01.01.2015 issued on the address of Jhuggi No. C-385. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

26. The Appellant/Claimant has tendered her Driving License (Annexure-D) as well as Voter ID Card No. CXY 1075803 (Annexure-E), Aadhar Card (Annexure-F) & PAN Card (Annexure-G) & Driving License (Annexure-J) of her husband Sanjay, Aadhar Cards of her sons, Sujal & Rohan (Annexure-H & Aadhar Card-I), and Electricity Bill (Annexure-K), Voter List of the year 2012 (Annexure-M) and Voter List of the year 2019 (Annexure-N).

27. It is pointed out that the Voter ID Card No. CXY 1075803 (Annexure-E) of her husband Sanjay has been issued on 25.03.2019 but his name appears at Sl. No. 434 in the Voter List of the year 2012 (Annexure-M) at Sl. No. 431 in the Voter List of the year 2019 (Annexure-N). This shows that the original Voter ID Card No. CXY 1075803 (Annexure-E) must have been issued much prior to 25.03.2019 and that is why the same has been recorded in the Voter List of the year 2012 (Annexure-M) and this shows that the Voter ID Card No. CXY 1075803 was in existence on the cutoff date of 01.01.2015. It is also pointed out that Driving License (Annexure-J) of her husband Sanjay has been issued on 08.06.2007. The Electricity Bill (Annexure-K) shows that the electricity connection has been taken by her mother-in-law Malti on 30.05.2008, thereby, showing that the Appellant/Claimant was not having electricity connection on the first floor of Jhuggi No. C-385 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 his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

28. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to

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Annexure-N, 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 separate Ration Card on the cutoff date of 01.01.2015 in spite of the fact that she is claiming allotment against the upper floor.

29. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-385 regarding which she is claiming allotment from DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

30. 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. 385/68/69.1/1564 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

(Ranbir Singh) 4/8/2023	(Satish Ahlawat) 4/8/2023	(Rachna Tiwary) 4/8/2023
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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 634 of 2023

Date of Institution: 27.12.2022

Date of Order: 04.08.2023

Present: Appellant/Claimant Chandan Sharma S/o Jag Narayan Sharma

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-337, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-337 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal

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Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/9/13.1-A/1679 dated 07.11.2022. Aggrieved by the same, the present Appeal No. 634 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 26.07.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-337 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DDA.

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7. The statement of the Appellant/Claimant, Chandan Sharma, has been recorded before us on 26.07.2023 wherein he has stated that his parents, Jag Narayan & Dev Mati, are having three sons, Deepak, Chandan & Jitu. All the sons except Jitu are married. Deepak is married with Sita and having three children, Lucky, Raman & Aditya. Chandan (Appellant/Claimant) is married with Aarti and having three children Aman, Harsh & Shidhi.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. C-337 and it comprises of one room on the ground floor and two rooms on the first floor.

9. The Appellant/Claimant has stated that his parents, Jag Narayan & Dev Mati, along with their unmarried son Jeetu are living on the ground floor of the Jhuggi No. C-337 and regarding that DDA has made allotment in favour of his mother, Dev Mati. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that his brother Deepak along with his wife Sita and all the three children is living in the first room of the first floor of the Jhuggi No. C-337 and regarding that Sita has sought allotment from DDA but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the Appeal No. 549 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Aarti and all the children Aman, Harsh & Shidhi is living in the second room on the first floor of the Jhuggi No. C-337.The Appellant/Claimant has sought allotment from DDA against the second room of the first floor of the Jhuggi No. C-337 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 634 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-M, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. It is pointed out that both the appeals bearing Appeal No. 549 of 2023 and Appeal No. 634 of 2023 should be decided separately on their individual merit.

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13. DDA has furnished the survey record along with four video clips pertaining to Jhuggi No. C-337. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 26.07.2023 wherein the Appellant/Claimant has stated that the two video clips pertain to the ground floor of the Jhuggi No.C-337 in which his mother, Dev Mati, is seen and further her room & kitchen are also seen. The third video clip pertains to the first room on the first floor of the Jhuggi No. C-337 in which Sita W/o Deepak is seen and further, her room & kitchen are also seen. The fourth video clip pertains to the second room on the first floor of the Jhuggi No. C-337 in which the Appellant/Claimant is seen and further, his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. C-337 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by his parents, Jag Narayan & Dev Mati, whereas one of the rooms on the first floor is used for residential purposes by Sita W/o Deepak (Appellant/ Claimant of Appeal No. 549 of 2023) and the second room on the first floor is used for residential purposes by Chandan Sharma S/o Jag Narayan (Appellant/ Claimant of Appeal No. 634 of 2023).

14. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-337 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

15. Now we shall first appraise the material placed on file to determine the eligibility on other parameters also 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 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 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

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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 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 separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/9/13.1-A/1679 dated 07.11.2022.

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,

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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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

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19. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

20. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

22. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a

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separate Ration 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.

23. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

24. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1414986 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2015 (Annexure-L) and Voter List of the year 2019 (Annexure-M).

25. It is pointed out that the Voter ID Card No. ARE 14149896 (Annexure-A) has been issued on 28.02.2014, much prior to the cutoff date 01.01.2015 and the name of the Appellant/Claimant appears at Sl. No. 653 in the Voter List of the year 2015 (Annexure-L) and at Sl. No. 544 in the Voter List of the year 2019 (Annexure-M). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in the voter list of the year's 2015 & of the year of survey.

26. 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. C-337 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered Ration Card (Annexure-K), which has been issued in favour of his mother, Dev Mati, and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. 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 Jhuggi No. C-337. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

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27. The Appellant/Claimant has tendered the Passbook of Indian Overseas Bank (Annexure-D), the Electricity Bill (Annexure-E) as well as the Voter ID Card No. ARE 2008422 (Annexure-F), Aadhar Card (Annexure-G) & PAN Card (Annexure-H) of his wife Aarti and Aadhar Cards of his sons, Aman & Harsh (Annexure-I & Annexure-J) respectively.

28. It is pointed out that the Passbook of Indian Overseas Bank (Annexure-D) shows that the Appellant/Claimant had opened the account on 10.09.2014. The Electricity Bill (Annexure-E) shows that the Appellant/Claimant has taken the electricity connection on 14.01.2021, much after the cutoff date of 01.01.2015. Further, the Voter ID Card No. ARE 2008422 (Annexure-F) of his wife Aarti has been issued on 21.01.2015, 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 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

29. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-M, 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 separate Ration Card on the cutoff date of 01.01.2015 in spite of the fact that he is claiming allotment against the upper floor.

30. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-337 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, which make separate Ration Card a mandatory document for the upper floor.

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31. 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. 385/9/13.1-A/1679 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

32. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 669 of 2023

Date of Institution: 25.01.2023

Date of Order: 04.08.2023

Present: Appellant/Claimant Gautam Das S/o Satyam Das

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-191, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-191 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No.

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385/65/35.2/1695 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 669 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 02.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-191 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 upper floor as per the policy guidelines issued by DD.

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7. The statement of the Appellant/Claimant, Gautam Das, has been recorded before us on 02.08.2023 wherein he has stated that his parents, Anil Das & Arti, are having three sons, Ramesh, Sukesh & Satyam and one daughter Shanti. Anil Das had expired in the year 2014. All the children are married. Shanti is living in her matrimonial home. Ramesh is married with Shobha and having one son. Sukesh is married with Vandana and having two children but afterwards Vandana had expired. Satyam is married with Asima and having two children, Gautam (Appellant/Claimant) & Rakesh. Rakesh is unmarried. Gautam is married with Lata and having two children; Brishti & Tushar.

8. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi bearing No. A-191 and it comprises of one room on the ground floor and two rooms on the first floor and one room on the second floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

9. The Appellant/Claimant has stated that his mother Arti along with the family of her son Sukesh is living in the ground floor of the Jhuggi No. A-191 and regarding that DDA has made allotment in favour of his mother, Arti. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that his uncle Ramesh along with his wife Shobha & son is living in the first room on the first floor of the Jhuggi No. A-191 but regarding that he has not sought allotment from DDA. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that his parents, Satyam and Asima, along with their unmarried sons Rakesh are living in the second room on the first floor of the Jhuggi No. A-191 and regarding that his father Satyam has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee but he has not filed any Appeal before the Appellate Authority to challenge the rejection order. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that he along with his wife Lata and both the children, Brishti & Tushar, is living on the second floor of the Jhuggi No. A-191 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 669 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A

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

13. DDA has furnished the survey records along with three video clips of Jhuggi No. A-191. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 02.08.2023 wherein the Appellant/Claimant has stated that the video clips pertain to the Jhuggi No. A-191 in which his grandmother Arti is seen and further, her room & kitchen in the Jhuggi No. A-191 are also seen. The Appellant/Claimant has stated that he had not got the video clip prepared of the second floor of the Jhuggi No. A-191 regarding which he is claiming allotment from DDA.

14. Here it is pertinent to point out that the Appellant/Claimant has categorically stated his family is having a triple storey Jhuggi bearing No. A-191 and it comprises of one room on the ground floor and two rooms on the first floor and one room on the second floor. DDA has made allotment in favour of his grandmother, Arti, against the ground floor of the said Jhuggi No. A-191. But his uncle Ramesh, who is living in the first room on the first floor of the Jhuggi No. A-191 has not sought allotment from DDA. However, his father Satyam has not sought allotment from DDA against the second room on the first floor of the Jhuggi No. A-191 but he had chosen not to challenge the rejection order by way of filing of appeal before the Appellate Authority. Furthermore, in addition to his father, Satyam, the present Appellant/Claimant has also sought allotment against the second floor of the Jhuggi No. A-191 but his claim was rejected by EDC and aggrieved by the same he had filed the present appeal. But the Appellant/Claimant has admitted that he has not got the survey conducted of the second floor. This shows that the Appellant/Claimant was not living separately and independently on the second floor of the Jhuggi No. A-191 but in order to grab allotment from DDA he had submitted wrong claim in collusion with his family members to maximize allotments inspite of the fact that the claim of his father was found to be wrong and he had failed to substantiate the same. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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15. Now we shall first appraise the material placed on file to determine the eligibility on other parameters 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 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 second floor 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 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. 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 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. 385/65/35.2/1695 dated 07.11.2022.

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:

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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 is 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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

19. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

20. It is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part–B Para 10 of DDA policy runs as under:

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

21. 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.

22. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card 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: -

"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.

23. 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

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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 with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

24. 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) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

25. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015

GIST OF THE POLICY

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26. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

27. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further 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.

28. 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 he 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.

29. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

30. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1413947 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2015 (Annexure-H) and Voter List of the year 2019 (Annexure-I).

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31. It is pointed out that the Voter ID Card No. ARE 1413947 (Annexure-A) has been issued on 22.02.2009, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 764 in the Voter List of the year 2015 (Annexure-H) and at Sl. No. 857 in the Voter List of the year 2019 (Annexure-I). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2015 & also in the year of survey.

32. 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. A-191 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered Ration Card (Annexure-F), which has been issued in favour of his grandmother, Arti, on 04.11.2014 and the name of the Appellant/Claimant is mentioned. 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 Jhuggi No. A-191. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

33. The Appellant/Claimant has tendered the Aadhar Card (Annexure-D) & PAN Card (Annexure-E) of his wife Lata Das and Electricity Bill (Annexure-G).

34. It is pointed out that the Electricity Bill (Annexure-G) shows that the connection has been taken by his grandmother, Arti, on 11.06.2008 on the ground floor of the Jhuggi No. A-191 thereby showing that the Appellant/Claimant was not having electricity connection on the second floor of the Jhuggi No. A-191 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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35. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and further he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy. The documents, Annexure-A to Annexure-I, 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. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. A-191 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

36. 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. 385/65/35.2/1695 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

37. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 305 of 2023

Date of Institution: 28.11.2022

Date of Order: 07.08.2023

Present: Appellant/ Claimant Kamlesh W/o Suresh D/o Ram Bahadur

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 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. B-332, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-332 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, Bhoomiheen Camp, duly communicated

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its order bearing No. 385/10/106.G/725 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 305 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 28.07.2023. 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 Prakash Chand, Dy. Director, & Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No.B-332 was found to exist on the upper floor but she had failed to submit required documents, i.e., Voter ID Card 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 07.11.2022 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.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on 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 Jhuggi bearing No.B-332 as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Kamlesh, has been recorded before us on 28.07.2023 wherein she has stated that she is married with Suresh and having three sons;

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Amit, Rahul & Surjit and one daughter Preeti. All the children are married. Preeti is married with Deepak and she is living in her matrimonial home in Najafgarh, Delhi. Surjit is married with Reena and having one son. Rahul is married with Lalit and having two children. Amit is married with Pushpa and having one son.

8. The Appellant/Claimant has stated that her family is having three separate Jhuggis in Bhoomiheen Camp bearing Jhuggi No. B-582, Jhuggi No. B-583 & Jhuggi No.B-332.

Jhuggi No. B-582

9. The Appellant/Claimant has stated that her son Rahul along with his family is living in the Jhuggi no. B-582 and regarding that DDA has made allotment in favour of Rahul. These facts are not disputed by DDA.

Jhuggi No. B-583

10. The Appellant/Claimant has stated that her son Surjit along with his family is living separately in the Jhuggi No. B-583 and regarding that DDA has made allotment in favour of Surjit. These facts are not disputed by DDA.

Jhuggi No. B-332

11. The Appellant/Claimant has stated that his Jhuggi No. B-332 is a double storey structure and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

12. The Appellant/Claimant has stated that her son Amit along with his wife Pushpa & son is living on the first floor of the Jhuggi No. B-332 and regarding that Amit has sought allotment from DDA but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same, he has filed Appeal in the month of April 2023. These facts are not disputed by DDA.

13. The Appellant/Claimant has stated that she along with her husband Suresh is living on the ground floor of the Jhuggi No. B-332. The Appellant/Claimant has sought allotment from DDA against the ground floor of the said Jhuggi No. B-332 but her claim has been rejected

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by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 305 of 2023 before the Appellate Authority for redressal. 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 favour of her claim.

14. DDA has furnished the survey records along with twelve video clips of Jhuggi No. B-332. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 28.07.2023 wherein the Appellant/Claimant has stated that the nine video clips pertain to the ground floor of the Jhuggi No. B-332 in which the Appellant/Claimant is seen and further, her room & kitchen on the ground floor are also seen. The next three video clips pertain to the first floor of the Jhuggi No. B-332 in which her son Amit is seen and further, his room & kitchen on the first floor are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clip has duly proved that the Jhuggi No B-332 of the Appellant/Claimant is a double storey structure and it was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the ground floor is used by the Appellant/Claimant & her family for residential purposes.

15. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-332 in Bhoomiheen Camp is a pucca structure and it was in existence much prior to the cutoff date of 01.01.2015 and further, the Appellant/Claimant & her family has been using the ground floor of the said Jhuggi for residential purposes.

16. 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 Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the said Jhuggi bearing No. B-332 as per the policy guidelines issued by DDA.

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

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

> **"Part-B**
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
> 10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
> 11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.
>
> **As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:**

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

19. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and 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.

20. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the ground floor of the Jhuggi bearing No. B-332 as per the policy guidelines issued by DDA.

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21. The Appellant/Claimant has tendered her three Voter ID Cards (Annexure-A to Annexure-C), Aadhar Card (Annexure-D), PAN Card (Annexure-D), Voter List of the year 2008 (Annexure-H) and Voter List of the year 2013 (Annexure-I).

22. It is pointed out that the Appellant/Claimant has tendered her three Voter ID Cards (Annexure-A to Annexure-C). The first Voter ID Card (Annexure-A) is bearing No. DL/03/035/246588, which has been issued on 19.01.1995. The second Voter ID Card bearing No. ARE 1153832 (Annexure-A) has been issued on 27.10.2008. The third Voter ID Card bearing No. ARE 2505097 (Annexure-C) has been issued on 29.01.2020. The Appellant/Claimant has failed to explain the reasons of her having got three Voter ID Cards (Annexure-A to Annexure-C) issued in her favour.

23. The first Voter ID Card (Annexure-A) is bearing No. DL/03/035/246588, which has been issued on 19.01.1995. It is also pointed out that no Voter Lists have been tendered by the Appellant/Claimant to show that she has used the first Voter ID Card No. DL/03/035/246588 (Annexure-A) dated 19.01.1995 to cast her votes in any of the years.

24. The second Voter ID Card bearing No. ARE 1153832 (Annexure-A) has been issued on 27.10.2008. It is also pointed out that the name of the Appellant/Claimant appears at Sl. No. 123 in the Voter List of the year 2008 (Annexure-H) and at Sl. No. 140 in the Voter List of the year 2013 (Annexure-I). In both the Voter Lists, the number of her Voter ID card has been mentioned to be ARE 1153832. The Appellant/Claimant has specifically admitted that she had not used the Voter ID Card (Annexure-B) to cast her vote in the years 2014, 2015 & 2019. The admission of the Appellant/Claimant is clincher piece of evidence and it shows that the Appellant/Claimant does not fulfill the eligibility criteria as her admittedly does not appear in the voter list of the year's 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, thereby showing that she was not living in Jhuggi No, B-332 during the relevant period.

25. The third Voter ID Card bearing No. ARE 2505097 (Annexure-C) has been issued on 29.01.2020. It is also pointed out that not Voter Lists have been tendered by the Appellant/Claimant to show that she has used the first Voter ID Card No. ARE 2505097 (Annexure-C) to cast her votes in any of the subsequent years.

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26. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in the voter list of the year's 2008 & 2013 but no material is placed on file to show that her name appears in the Voter List of the year's 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 does not fulfill the eligibility criteria as per the guidelines issued by DDA.

27. The Appellant/Claimant has tendered the Electricity Bill (Annexure-F), Ration Card (Annexure-G) and the Pass Book of CBI (Annexure-J).

28. It is also pointed out that the Electricity Bill (Annexure-F) shows that the electricity connection has been taken by the Appellant/Claimant on 16.03.2009. Further, the Ration Card (Annexure-G) has also been issued in favour of the Appellant/Claimant on 23.12.2014 but the name of her husband is conspicuously missing as only the name of the three children; Amit, Preeti & Pushpa has been mentioned. The Pass Book of CBI (Annexure-J) shows that the Appellant/Claimant has opened the account on 25.07.2013. 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 name of the Appellant/ Claimant does not appears in the Voter List of the year's 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.

29. The material placed on file shows that the name of the Appellant/ Claimant does not appears in the Voter List of the year's 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents, Annexure-A to Annexure-J, 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. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory documents as the name of the Appellant/ Claimant does not appears in the Voter List of the year's 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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30. 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. 385/10/106.G/725 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

31. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 318 of 2023

Date of Institution:28.11.2022

Date of Order: 07.08.2023

Present: Appellant/ Claimant Annoda (since deceased) W/o Aviram through her legal heir, Anil (son)

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-418, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-418 was found to exist on the ground floor 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

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for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/37/35.G/1004 dated 07.11.2022 to the legal heir of the present Appellant/ Claimant, who has since died on 30.07.2022. Aggrieved by the same, the present Appeal No. 318 of 2023 has been filed by her legal heir, Anil (son).

3. In response to the notice, Anil (son), legal heir of the present Appellant/ Claimant, Annoda (since deceased) W/o Aviram has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of Anil (son) has been recorded before us on 19.07.2023 and he has tendered documents, Annexure- A to Annexure- N, in support of the claim of the present Appellant/ Claimant, Annoda (since deceased) W/o Aviram. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by Anil (son), legal heir of the present Appellant/ Claimant, Annoda (since deceased) W/o Aviram as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-418 was found to exist on the ground floor but she had failed to submit required documents, i.e., Voter ID Card 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 the legal heir of the present Appellant/ Claimant, who has since died on 30.07.2022, by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified"** and aggrieved by the same the present Appeal No. 318 of 2023 has been filed by her legal heir, Anil (son).

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

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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 the present Appellant/ Claimant, Annoda (since deceased) W/o Aviram is entitled to claim allotment against the Jhuggi No. C-418 as per the policy guidelines issued by DDA.

7. The statement of Anil S/o Annoda, Appellant/Claimant (since deceased), has been recorded before us on 19.07.2023 wherein he has stated that his parents, Abhi Ram & Annoda, are having two sons, Sunil & Anil and two daughters; Shifali & Milan Gayan. Abhi Ram had expired in the year 2012 and Annoda has expired on 30.07.2022 and her Death Certificate is (Annexure-D). All the children are married Shifali is married with Dinesh and Milan is married with Sapan and they are living in their respective matrimonial homes in Bhoomiheen Camp, Kalkaji. Anil is married with Rupa and having four children Anita, Manish, Nitu & Mihir. Sunil is married with Mamta and having three children, Purnima, Puja & Manoj. Anil has stated that his family is having two Jhuggis bearing No. B-470 and C-418.

JHUGGI NO. 470

8. Anil has stated that his brother Sunil along with his wife Mamta and children is living in the Jhuggi No. B-470 and regarding that DDA has made allotment in favour of Mamta. Further, in addition to that DDA has also made allotments in favour of her sisters Shifali and Milan against their matrimonial sides.

JHUGGI NO. 418

9. Anil has further stated that the second Jhuggi is bearing Jhuggi No. C-418, which is a double storey Jhuggi and it comprises of one room on each floor. His mother (until her death) along with family of Anil was living in the said Jhuggi No. C-418 and regarding that her mother Annoda has sought allotment from DDA but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, the present Appeal No. 318 of 2023 has been filed before the Appellate Authority for redressal by him in the capacity of legal heir of his mother Annoda (since deceased). Anil has also tendered documents, Annexure-A to Annexure-N, in support of the claim of the Appellant/ Claimant and prayed that DDA be directed to make allotment in favour of his mother, Annoda (since deceased).

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10. DDA has furnished the survey records along with one video clip of Jhuggi No. C-418. The video clip was played before Anil when his statement was recorded before us on 19.07.2023 wherein Anil has stated that the video clip pertains to the Jhuggi No. C-418 in which Anil is getting the survey conducted on behalf of his mother Annoda, who was seriously ill at that time and further, Annoda is also seen in the video clip and further, her room & kitchen are also seen. Thus the statement Anil S/o Annoda Appellant/Claimant (since deceased) as well as the survey records/video clips has duly proved that the double storey Jhuggi No. C-418 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/ Claimant Annoda (since deceased) W/o Aviram was using the same for residential purposes.

11. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-418, Bhoomiheen Camp is a pucca structure and the Appellant/ Claimant Annoda (since deceased) W/o Aviram was using the same for residential purposes.

12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant Annoda (since deceased) W/o Aviram 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 double storey Jhuggi No. C-418 as per the policy guidelines issued by DDA.

13. Anil has stated that the claim of the Appellant/ Claimant Annoda (since deceased) W/o Aviram has been wrongly rejected by DDA. Anil has tendered documents, Annexure-A to Annexure-N, in support of her claim and prayed that DDA be directed to make allotment in favour of the Appellant/ Claimant Annoda (since deceased) W/o Aviram.

14. 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.

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- 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."

15. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and 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.

16. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further 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-418 as per the policy guidelines issued by DDA.

17. Anil has tendered two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), Voter List of the year 2009 (Annexure-L) & 2019 (Annexure-M) of the Appellant/ Claimant Annoda (since deceased) W/o Aviram.

18. It is pointed out that the Appellant/ Claimant Annoda (since deceased) W/o Aviram was having two Voter ID Cards (Annexure-A & Annexure-B). The first Voter ID Card bearing No. DL/03/035/249211 (Annexure-A) has been issued on 23.02.1995

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whereas the second Voter ID Card bearing No. ARE 2101715 (Annexure-B) has been issued on 14.03.2016, much after the cut off date of 01.01.1995. The name of Annoda appears at Sl. No. 535 in the Voter List of the year 2009 (Annexure-L) in which number of her Voter ID Card is mentioned to be DL/03/035/249211. However no Voter Lists of the subsequent years and more particularly of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also of the year of survey have been tendered to show that the Appellant/ Claimant Annoda (since deceased) W/o Aviram had used the first Voter ID Card bearing No. DL/03/035/249211 (Annexure-A) to cast her vote during the relevant period from 2012 to 2019.

19. It is pointed out that Voter ID Card No. DL/03/035/249211 (Annexure-A) has been issued on 23.02.1995, much prior to the cutoff date 01.01.2015 but the Appellant/Claimant has not tendered any Voter Lists to show that she had used this Voter ID Card No. DL/03/035/249211 (Annexure-A) to cast her vote in the relevant years from 2012 to 2019. The material placed on file shows that she had not used the Voter ID Card No. DL/03/035/249211 (Annexure-A) to cast her vote in any of the elections till now except in the year 2009. Therefore, this Voter ID Card No. DL/03/035/249211 (Annexure-A) might have been cancelled after 2009 and that is why the same is not reflected in any Voter Lists. This shows that during these years from 2012 to 2019 and more particularly on the cut off date of 01.01.2015 she was not living in the said Jhuggi No. C-418 regarding which she is claiming allotment from DDA. This creates dent in her story.

20. There is no doubt that the name of the Appellant/Claimant appears at Sl. No. 681 in the Voter List of the year 2019 (Annexure-M) in which the number of her Voter ID Card has been mentioned to be ARE 2101715. This Voter Card bearing No. ARE 2101715 (Annexure-B), has been issued on 14.03.2016, much after the cut off date of 01.01.1995. Therefore, the question of her name appearing on the basis of Voter Card bearing No. ARE 2101715 (Annexure-B) dated 14.03.2016 in the voter lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) does not arise at all. Thus neither the first Voter ID Card bearing No. DL/03/035/249211 (Annexure-A) dated 23.02.1995 nor the second Voter ID Card bearing No. ARE 2101715 (Annexure-B) dated 14.03.2016 was in existence on the cutoff date of 01.01.2015. Therefore, we have no hesitation in holding that the Appellant/ Claimant Annoda (since deceased) W/o Aviram was not having a Voter ID Card on the cut off date of 01.01.2015 and her

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name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). Therefore, the Appellant/Claimant Annoda (since deceased) W/o Aviram does not fulfill the eligibility criteria as per the guidelines issued by DDA.

21. Anil has also tendered his Voter ID Card No. ARE 1185560 (Annexure-E), Aadhar Card (Annexure-F) & PAN Card (Annexure-G) as well as the Electricity Bill (Annexure-H), Passbook of PNB (Annexure-N) and three Ration Cards (Annexure-I to K).

22. It is pointed out that the Voter ID Card No. ARE 1185560 (Annexure-E) of Anil has been issued on 27.10.2008. The Electricity Bill (Annexure-H) shows that the electricity connection has been taken by Aviram, who is the husband of the Appellant/Claimant Annoda (since deceased), on 06.06.2008. The Passbook of PNB (Annexure-N) shows that the account has been opened by the Appellant/Claimant on 24.07.2008. The Ration Card (Annexure-J) has been issued on 22.06.2002 in the name of Aviram, who is the husband of the Appellant/Claimant (since deceased), and the name of the Appellant/Claimant has been mentioned. The Ration Card (Annexure-I) has been issued on 01.06.2008 in favour of Aviram and the name of the Appellant/Claimant has been mentioned. The third Ration Card (Annexure-K) has been issued in the name of the Appellant/Claimant and the name of her family members including that of Anil have been 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 Annoda (since deceased) W/o Aviram was not having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

23. The material placed on file shows that the Appellant/ Claimant Annoda (since deceased) W/o Aviram was not having a Voter ID Card on the cut off date of 01.01.2015 and her name does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). The documents, Annexure-A to Annexure-N, are of no help to the Appellant/Claimant Annoda (since deceased) W/o Aviram

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because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant Annoda (since deceased) W/o Aviram does not fulfill the eligibility criteria as per the guidelines issued by DDA.

24. 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. 385/37/35.G/1004 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

25. 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.

7/8/2023

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

7/8/2023

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

7/8/2023

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 623 of 2023

Date of Institution: 20.12.2022

Date of Order: 07.08.2023

Present: Appellant/Claimant Sudhir Kumar S/o Ram Bachan

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-665, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-665 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/26/14.1/835 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by

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the same, the present Appeal No. 623 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 12.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-665 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DDA

8. The statement of the Appellant/Claimant, Sudhir Kumar, has been recorded before us on 12.07.2023 wherein he has stated that his parents, Ram Bachan & Akhji Devi, are having two sons, Sudhir & Sushil. Ram Bachan had expired on 05.10.2019 and Akhji

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Devi on 07.08.2020 and their Death Certificate are Annexure-E & Annexure-F respectively. Sushil is married with Sarvesh and having two daughters, Sunidhi & Pridhi. Sudhir (Appellant/Claimant) is married with Shyam Sundri and having one son Sushant

9. The Appellant/Claimant has stated that his parents, Ram Bachan (until his death on 05.10.2019 & Akhiji Devi (until her death on 07.08.2020) along with the family of their son Sushil were living on the ground floor of the Jhuggi No. C-665 and regarding that DDA has made allotment in favour of his father Ram Bachan (since deceased) and his mutation has been sanctioned in favour of his son Sushil. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated the he along with his wife Shyam Sundri and son Sushant is living on the first floor of the Jhuggi No.C-665. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No.C-665 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 623 of 2023, before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished the survey record along with one video clip pertaining to Jhuggi No. C-665. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 12.07.2023 wherein the Appellant/Claimant has stated that video clip pertains to the ground floor of the Jhuggi No. C-665, in which Sushil is seen getting survey conducted on behalf of his father Ram Bachan (since deceased) and he is also seen holding a slate on which "Ram Bachan/C-665 FF" is written and further, the room & kitchen of Ram Bachan (since deceased) are also seen. There is no video of the first floor. The Appellant/Claimant specifically stated that he had not got the survey conducted of the first floor because initially only his father Ram Bachan (since deceased) had claimed allotment against Jhuggi No. C-665 but later on the Appellant/Claimant had also made application dated 29.09.2020 (Annexure-J) for getting the survey conducted. This shows that the Appellant/Claimant had submitted application for getting the survey conducted on 29.09.2020, much after the death of his parents and also after the survey was already conducted by DDA in Bhoomiheen Camp.

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This shows that the application dated 29.09.2020 (Annexure-J) is a result of after thought & concoction to grab allotment from DDA by hook or crook. This shows that the Appellant/Claimant was not living separately and independently on the first floor of Jhuggi No. C-665 because had it been so then he would have got the survey conducted against the first floor of the Jhuggi No. C-665 and furthermore, Sushil, would not have got the survey conducted of the Jhuggi No. C-665, thereby, claiming that he is getting the survey conducted on behalf of his father Ram Bachan (since deceased). This shows that ground and first floor of the said Jhuggi No. C-665 was jointly used by his father, Ram Bachan (since deceased). The Appellant/Claimant was not living separately and independently on the first floor of Jhuggi No. C-665 but he was living jointly with his parents in Jhuggi No. C-665 regarding that DDA has made allotment in favour of his father Ram Bachan (since deceased) and after his death mutation was sanctioned in favour of one of his sons, namely, Sushil, and accordingly second allotment against the same dwelling unit is not permissible as per the 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

12. Now we shall first appraise the material placed on file to determine the eligibility on other parameters 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 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 as per the policy guidelines issued by DDA.

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

14. 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

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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 separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/26/14.1.G/835 dated 07.11.2022.

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 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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

16. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17. As already pointed out above, condition contained in Part–B Para 10 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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18. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

19. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

20. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

21. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1181338 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-H) and Voter List of the year 2019 (Annexure-I).

22. It is pointed out that Voter ID Card No. ARE 1181338 (Annexure-A) has been issued on 04.12.2009, much prior to the cutoff date 01.01.2015. The name of the

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Appellant/Claimant appears at Sl. No. 73 in the Voter List of the year 2014 (Annexure-H) and at Sl. No. 97 in the Voter List of the year 2019 (Annexure-I). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in the Voter List of the year's 2014 & of the year of survey.

23. 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. C-665 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered Ration Card (Annexure-G), which has been issued in favour of his father, Ram Bachan, on 27.03.2017, much after the cutoff date 01.01.2015 and the name of the Appellant/Claimant is mentioned. 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. C-665 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

24. The Appellant/Claimant has tendered the Electricity Bill (Annexure-D), which shows that electricity connection had been taken by his father Ram Bachan on the ground floor of the Jhuggi No. C-665 on 26.06.2008, thereby, showing that the Appellant/Claimant was not having electricity connection on the first floor of the Jhuggi No. C-665 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned document is of no help to the Appellant/Claimant because these document does 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 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.

25. The material placed on file shows that the Appellant/Claimant was not living separately and independently on the first floor of Jhuggi No. C-665 but he was living jointly with his parents in Jhuggi No. C-665 regarding that DDA has made allotment in favour of his father Ram Bachan (since deceased) and after his death mutation was sanctioned in favour of one of his sons, namely, Sushil, and accordingly second allotment against the same dwelling unit is not permissible as per the guidelines issued

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by DDA and further the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015. The documents, Annexure-A to Annexure-J, 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.

26. Accordingly, we have no hesitation in holding that the Appellant/Claimant was not living separately and independently on the first floor of Jhuggi No. C-665 but he was living jointly with his parents in Jhuggi No. C-665 regarding that DDA has made allotment in favour of his father Ram Bachan (since deceased) and after his death mutation was sanctioned in favour of one of his sons, namely, Sushil, and accordingly second allotment against the same dwelling unit is not permissible as per the guidelines issued by DDA and further the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-665 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.

27. 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. 385/26/14.1/835 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

28. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 663 of 2023

Date of Institution: 20.12.2022

Date of Order: 07.08.2023

Present: Appellant/Claimant Sumit Kumar Jha S/o Sunil Jha

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-82/A, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-82/A was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No.

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385/62/85.G/1352 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 663 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 24.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-82/A was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Sumit Kumar Jha, has been recorded before us on 24.07.2023, wherein he has stated that his parents, Sunil & Vineeta, are having

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one son Sumit and two daughters, Meenu & Archna. Archna is unmarried. Meenu is married with Amresh and she is living in her matrimonial home in Burari, Delhi. Sumit (Appellant/Claimant) is married with Divya.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. C-82/A, which comprises of one room on each floor and an iron ladder is placed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that his parents, Sunil & Vineeta, along with their unmarried daughter, Archana, is living on the ground floor of the Jhuggi No. C-82/A and regarding that DDA has made allotment in favour of his mother Vineeta. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Divya is living on the first floor of the Jhuggi No. C-82/A. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. C-82/A but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 663 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished the survey record along with two video clips pertaining to Jhuggi No. C-82/A. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 25.07.2023 wherein he has stated that the first video clip pertains to the ground floor of Jhuggi No. C-82/A in which his mother Vineeta is seen and further, her room & kitchen on the ground floor are seen. The second video clip pertains to the first floor of Jhuggi No. C-82/A in which an iron ladder, which is placed outside in the gali and used for going to the upper floor is seen but there is no video of the first floor, thereby, showing the room & kitchen of the Appellant/Claimant.

13. The Appellant/Claimant that categorically stated that he had not got the video prepared of the first floor of the Jhuggi No. C-82/A regarding which he is claiming allotment from DDA. Had the Appellant/Claimant living separately and independently on the first floor of the Jhuggi No. C-82/A, then, he would have certainly got the video clips prepared. This shows that the Appellant/Claimant has come forward with a wrong & false story to claim allotment from DDA by hook or crook. This shows that the

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Appellant/Claimant was not living separately & independently on the first floor of Jhuggi No. A-82/A but he along with his family was living jointly with his parents in Jhuggi No. A-82-A and regarding that DDA has made allotment in favour of his mother, Vineeta and accordingly two allotments against that dwelling unit are not permissible as per policy guidelines issued by DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

14. Now we shall first appraise the material placed on file to determine the eligibility on other parameters 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 he is entitled to claim allotment against the first floor 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-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

16. 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 he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

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

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guidelines issued by DDA because 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. 385/62/85.G/1352 dated 07.11.2022.

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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

19. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

20. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

22. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

23. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

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24. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1565092 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2012 (Annexure-I) and Voter List of the year 2019 (Annexure-J).

25. It is pointed out that the Voter ID Card No. ARE 1565092 (Annexure-A) has been issued on 05.12.2014, much prior to the cutoff date 01.01.2015 and the name of the Appellant/Claimant appears at Sl. No. 1082 in the Voter List of the year 2012 (Annexure-I) and at Sl. No. 516 in the Voter List of the year 2019 (Annexure-J). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012 & also in the year of survey.

26. 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. C-82/A regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered two Ration Cards (Annexure-G & Annexure-H). The old Ration Card (Annexure-G) has been issued in favour of his father Sunil in the year 2005 and the name of the Appellant/Claimant is mentioned. The new Ration Card (Annexure-H) has been issued in favour of his mother Vineeta and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. 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 Jhuggi No. C-82/A. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

27. The Appellant/Claimant has tendered his Driving License (Annexure-D), the Passbook of Allahabad Bank (Annexure-E) and Electricity Bill (Annexure-F).

28. It is pointed out that the Driving License (Annexure-D) of the Appellant/Claimant has been issued on 17.01.2014. The Passbook of Allahabad Bank (Annexure-E) shows that the Appellant/Claimant had opened the account on 21.09.2012. The Electricity Bill (Annexure-F) shows that the electricity connection has been taken by his father Sunil Jha on 18.06.2008 on the address of the ground floor of the Jhuggi No. C-82/A thereby, showing that the Appellant/Claimant was not having electricity connection on the first

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floor of the Jhuggi No. C-82/A regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

29. The material placed on file shows that the Appellant/Claimant was not living separately & independently on the first floor of Jhuggi No. A-82/A but he along with his family was living jointly with his parents in Jhuggi No. A-82-A and regarding that DDA has made allotment in favour of his mother, Vineeta and accordingly two allotments against that dwelling unit are not permissible as per policy guidelines issued by DDA and further the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-J, 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 separate Ration Card on the cutoff date of 01.01.2015 in spite of the fact that he is claiming allotment against the upper floor.

30. Accordingly, we have no hesitation in holding that the Appellant/Claimant was not living separately & independently on the first floor of Jhuggi No. A-82/A but he along with his family was living jointly with his parents in Jhuggi No. A-82/A and regarding that DDA has made allotment in favour of his mother, Vineeta and accordingly two allotments against that dwelling unit are not permissible as per policy guidelines issued by DDA and further 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. A-82/A 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, which make separate Ration Card a mandatory document for the upper floor.

31. 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

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rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/62/85.G/1352 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

32. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 664 of 2023

Date of Institution: 05.12.2022

Date of Order: 07.08.2023

Present: Appellant/Claimant Uttam Burman S/o Biren Burman

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-244, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-244 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/26/90.2/863 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by

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the same, the present Appeal No. 664 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 02.08.2023. 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. It is pertinent to point out that the present Appellant/Claimant had refused to sign his statement made before us on 02.08.2023 and accordingly a note was given that adverse inference, if any, shall be drawn at appropriate stage. Further the perusal of Zimni Orders also shows that it had come to our notice that Vikram S/o Biren Burman, who is the real brother of the Appellant/Claimant, had managed to get alternative allotment from DDA against the second floor of Jhuggi No. C-244. In the interest of justice & fair play we had decided to hear his side of the story and in order to procure the presence of Vikram Burman S/o Biren Burman several notices were issued on 25.07.2023 and thereafter on 31.07.2023 but without any response. And finally on 31.07.2023 fresh notice was issued for 02.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate Vikram Burman S/o Biren Burman by calling him on his mobile number but in futility as he did not appear inspite of due service and it shows that he had avoided to appear before this Appellate Authority.

6. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

7. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi

8. bearing No. C-244 was found to exist on the upper floor but he had failed to submit required documents as per the policy guidelines for alternate allotment. Accordingly,

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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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

9. 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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 second floor as per the policy guidelines issued by DDA.

BACKGOUND OF THE FAMILY TREE

10. The statement of the Appellant/Claimant, Uttam Burman, has been recorded before us on 02.08.2023 wherein he has stated that his parents, Biren Burman & Vandana, are having nine sons; Bablu, Rahul Deepak, Narayan, Vikram, Vikas, Tarun, Prakash & Uttam. Biren Burman had expired about thirteen years ago. Prakash & Tarun are unmarried and they are living with their mother. Rahul is married with Litu and having two children and he is living in U.S.A. Narayan is married with Vandana and having two children and they are living in Palwal, Haryana. Deepak is married with Sunita and having two children. Vikram is married with Asha and having one child. Vikas is married with Beauty and having one child. Bablu is married with Tara and having three children. Uttam Burman (Appellant/Claimant) is married with Suchitra and having two children, Vinay & Omi.

TRIPLE STOREY JHUGGI NO. C-244

11. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi bearing No. C-244 and it comprises of two rooms on the ground floor, three rooms on the first floor and two rooms on the second floor and a pucca staircase has been constructed outside in the gali for going to the upper floor. One of the rooms on the first floor of the said Jhuggi No. C-244 is used as a joint kitchen by the entire family.

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Thus two rooms on each floor were allegedly claimed to be separate dwelling units whereas one of the rooms on the first floor was allegedly used by the family as joint kitchen.

TWO ALLOTMENTS AGAINST BOTH THE ROOMS ON THE GROUND FLOOR OF JHUGGI NO. C-244

12. The Appellant/Claimant has stated that his mother, Vadana Burman, along with two of her unmarried sons, Prakash & Tarun, is living in the first room on the ground floor of the Jhuggi No. C-244. DDA has made allotment in favour of my mother Vandana Burman. These facts are not disputed by DDA.

13. The Appellant/Claimant has also stated that his brother Deepak Burman along with his wife Sunita and children is living in the second room on the ground floor of Jhuggi No. C-244 and regarding that DDA has made allotment in favour of Sunita. These facts are not disputed by DDA.

ONE ALLOTMENT AGAINST ONE OF THE ROOMS ON THE FIRST FLOOR OF JHUGGI NO. C-244

14. The Appellant/Claimant has stated that his brother Bablu Burman along with his wife Tara and three children is living in the first room on the first floor of the Jhuggi No. C-244 and regarding that DDA has made allotment in favour of Tara. These facts are not disputed by DDA.

REJECTION OF CLAIM AGAINST THE SECOND ROOM ON THE FIRST FLOOR OF JHUGGI NO. C-244

15. The Appellant/Claimant has stated that his brother Vikas Burman along with his wife Beauty & child is living in the second room on the first floor of the Jhuggi No. C-244 and his claim for alternative allotment has been rejected by the Eligibility Determination Committee but he has not filed any Appeal before the Appellate Authority for redressal against the rejection order. Accordingly, the rejection order has attained finality. These facts are not disputed by DDA.

ONE ALLOTMENT AGAINST ONE OF THE ROOMS ON THE SECOND FLOOR OF JHUGGI NO. C-244

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16. The Appellant/Claimant has stated that his brother Vikram Burman along with his wife Asha & Children, is living in the first room on the second rom on the second floor of the Jhuggi No. C-244 and regarding that DDA has made allotment in favour of Vikram Burman. These facts are not disputed by DDA.

REJECTION OF CLAIM AGAINST THE SECOND ROOM ON THE SECOND FLOOR OF JHUGGI NO. C-244

17. The Appellant/Claimant has stated that he along with his wife, Suchitra, & both the sons, Vinay & Omi, is living in the second room of the second floor of the Jhuggi No. C-244. The Appellant/Claimant has sought allotment from DDA against the second room on the second floor of the Jhuggi No. C-244, but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 664 of 2023 before the Appellate Authority for redressal. 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 against the second floor of Jhuggi No. C-244.

18. DDA has furnished the survey records along with eight video clips of Jhuggi No. C-244. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 02.08.2023 wherein the Appellant/Claimant has stated that three video clips pertain to the ground floor of Jhuggi No. C-244 in which his mother, Vandana Burman, is seen in the first room and Suṇita W/o Deepak Burman is seen in the second room on the ground floor. Further, three video clips pertain to the first floor of the Jhuggi No. C-244 in which in the first room his sister-in-law, Tara W/o Bablu Burman, is seen and in the second room his brother, Vikas Burman, is seen whereas the third room used as a joint kitchen by the family is also seen. The next two video clips pertain to the second floor of the Jhuggi No. C-244 in which in the first room, his brother, Vikram Burman, is seen whereas in the second room his wife Suchitra is seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. C-244, which was used for residential purposes, was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and his mother Vandana Burman as well as the family of Deepak Burman & Sunita were living on the ground floor whereas the family of Bablu Burman & Tara and

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Vikas & Beauty were living on the first floor and further the family of Vikram Burman & Asha and Uttam Burman & Suchitra were living on the second floor.

19. Accordingly, we have no hesitation in holding that the Jhuggi No. C-244 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and it was used for residential purposes and further Vandana (mother) as well as the family of Deepak & Sunita (brother) were living on the ground floor whereas the family of Bablu & Tara (brother) and Vikas & Beauty (brother) were living on the first floor and further the family of Vikram & Asha (brother) and Uttam (Appellant/ Claimant) & Suchitra were living on the second floor.

FOUR ALLOTMENTS (TWO AGAINST THE GROUND FLOOR, ONE AGAINST THE FIRST FLOOR AND ONE AGAINST THE SECOND FLOOR)

20. The material placed on file shows that the Appellant/Claimant has come forward with the stand that against six separate dwelling units, which happened to be bearing same number, i.e., Jhuggi No. C-244, total six claims for alternative allotments were made by six members of the family, namely, Vandana W/o Biren, Sunita W/o Deepak S/o Biren, Tara W/o Bablu S/o Biren, Vikram S/o Biren, Vikas S/o Biren and Uttam S/o Biren. Out of total six claims, four claims thereby making alternative allotment have been allowed as under:

(i) Vandana W/o Biren against the first room on the ground floor

(ii) Sunita W/o Deepak S/o Biren against the second room on the ground floor

(iii) Tara W/o Bablu S/o Biren against the first room on the first floor

(iv) Vikram S/o Biren against the first room on the second floor

But two claims were rejected by the Eligibility Determination Committee as under:

(1) Vikas S/o Biren against the second room on the first floor (He did not file Appeal)

(2) Uttam S/o Biren against the second room on the second floor (filed present Appeal No. 664 of 2023)

21. It is pointed out that the four allotments made in favour of Vandana W/o Biren, Sunita W/o Deepak S/o Biren, Tara W/o Bablu S/o Biren and Vikram S/o Biren as well as the rejection of claim of Vikas S/o Biren are not matter-in-dispute before us but in the present appeal we are concerned with regard to the rejection of the claim made by the Appellant/ Claimant Uttam Burman S/o Biren.

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22. Now we shall first appraise the material placed on file to determine the eligibility on other parameters 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 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 second floor as per the policy guidelines issued by DDA.

23. 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

24. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. 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 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 he 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. 385/26/90.2/863 dated 07.11.2022.

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

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"Part-B

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

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

26. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

27. It is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part–B Para 10 of DDA policy runs as under:

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

28. 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.

29. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card 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: -

"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.

30. 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

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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 with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

31. 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) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

32. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015

GIST OF THE POLICY

33. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and

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further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

34. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further 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.

35. 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 he 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.

36. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.

37. The Appellant/Claimant has tendered his Voter ID Card No. CXY 1078138 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-g) and Voter List of the year 2019 (Annexure-H).

38. It is pointed out that the Voter ID Card No. CXY 1078138 (Annexure-A) has been issued on 19.11.2015, much after the cutoff date 01.01.2015. However, it is also pertinent to point out that the name of the Appellant/Claimant appears at Sl. No. 1051 in the Voter

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List of the year 2014 (Annexure-G) and at Sl. No. 1131 in the Voter List of the year 2019 (Annexure-H) in which the number of his Voter ID Card has been mentioned to be bearing number CXY 1078138.

39. It shows that the original Voter ID Card No. CXY 1078138 must have been issued much earlier to 19.11.2015 as it has been reflected in the Voter list of the year 2014 (Annexure-G) but the original is not placed on file to ascertain the date of its issuance. Thus there is no doubt that the duplicate Voter ID Card CXY 1078138 (Annexure-A) has been issued on 19.11.2015 but the original bearing the same number was in existence even in the year 2014 and that is why it has been reflected in the Voter List of the year 2014 (Annexure-G) and also in the Voter List of the year 2019 (Annexure-H). Therefore, it shows that the Appellant/ Claimant was having a Voter ID Card on the cut-off date of 01.01.2015 as he was having a Voter ID Card bearing same number even before the duplicate Voter ID Card CXY 1078138 (Annexure-A) was issued on 19.11.2015.

40. But no Voter List has been tendered to show that this Voter ID Card CXY 1078138 was used by the Appellant/ Claimant to cast his vote in the years 2012 & 2013. But the Voter Lists (Annexure- G & Annexure-H) shows that his name appears in at least in the voter list of the year's 2014 & also in the year of survey. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut-off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 & also in the year of survey but there is no material to show that his name also appears in the voter list of the year's 2012, 2013 & 2015. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

41. 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 second floor of the Jhuggi No. C-244 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 second floor of the Jhuggi No. C-244. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

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42. The Appellant/Claimant has tendered his Driving licence (Annexure-D), Aadhar Card (Annexure-E), Passbook of Indian Bank/Allahabad Bank (Annexure-E) and the Electricity Bill (Annexure-F).

43. It is pointed out that the Driving licence (Annexure-D) of the Appellant/Claimant has been issued on 21.01.2016, much after the cutoff date of 01.01.2015. The Passbook of Indian Bank/Allahabad Bank (Annexure-E) shows that the Appellant/Claimant had opened the account on 13.12.2011. The Electricity Bill (Annexure-F) shows that the electricity connection has been taken by the on 29.06.2008. 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 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.

44. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of second floor of the Jhuggi No. C-244 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 & 2015 and also further he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy. The documents, Annexure-A to Annexure-H, 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.

45. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. C-244 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further his name also does not appear in the voter list of the year's 2012, 2013 & 2015 and also further he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. C-244 regarding which he is claiming allotment from DDA. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

46. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria

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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. 385/26/90.2/863 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

47. *Before parting with this order it is pointed out that the matter is left open for the concerned competent authority of DDA to pass orders to review the alternative allotment made in favour of Vikram Burman S/o Biren Burman against the second floor of Jhuggi No. C-244, Bhoomiheen Camp, Kalkaji and pass appropriate orders on merit. The competent authority shall also be at liberty to take remedial action, if any, if willful lapse/ involvement of any person(s) is found after conducting enquiry with regard to Vikram Burman S/o Biren Burman having used forged & fabricated documents to cheat & defraud DDA to procure allotment on the basis of wrong & false claim. It is further observed that the concerned authorities shall regulate further course of action in accordance with law and as per the policy guidelines issued by DDA and they are authorized to take appropriate action/steps as they may deem fit. Accordingly, with these observations the matter is left open to be decided by the concerned authorities. The copy of this order be sent in sealed cover to worthy Vice Chairman of DDA for his kind perusal and taking further appropriate actions/steps which he deem fit necessary.*

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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 679 of 2023

Date of Institution: 23.01.2023

Date of Order: 07.08.2023

Present: Appellant/Claimant Anil Kumar Prajapati S/o Nand Lal Prajapati

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-154, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-154 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No.

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385/67/070.1.1/1530 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 679 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 03.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-E, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-154 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card not verified / / No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DDA.

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7. The statement of the Appellant/Claimant, Anil Kumar Prajapati, has been recorded before us on 03.08.2023 wherein he has stated that his parents, Nand Lal & Lakhpati, are having one son Anil and one daughter Kiran. Both the children are married. Kiran is married with Badri Prasad and she is living in her matrimonial home in Pratapgarh, Uttar Pradesh. Anil (Appellant/Claimant) is married with Reeta and having three children, Sneh, Aradhya & Janhu.

8. The Appellant/Claimant has stated that his wife & children are living in native village Asrahi, Pratapgarh, Uttar Pradesh with his parents, Nandlal & Lakhpati, whereas the Appellant/Claimant is living in Bhoomiheen Camp, Kalkaji and his family is frequently visiting him in Delhi.

9. The Appellant/Claimant has stated that his real uncle Meva Lal S/o Ram Sukh is having a double storey Jhuggi No. A-154 in Bhoomiheen Camp, Kalkaji and it comprises of one room on each floor. DDA has made allotment in favour of Meva Lal S/o Ram Sukh against the first floor of the Jhuggi No. A-154. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that he is claiming allotment against the first floor of the Jhuggi No. A-154 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 679 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-E, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished the survey record along with six video clips pertaining to Jhuggi No. A-154. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 03.08.2023 wherein the Appellant/Claimant has stated that the three video clips pertain to the ground floor of the Jhuggi No. A-154 in which his real uncle Meva Lal is seen and further his room & kitchen are also seen. The next three video clips pertain to the first floor of the Jhuggi No. A-154 in which the Appellant/Claimant is seen and further his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. A-154 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the first floor of the said Jhuggi was used by the Appellant/ Claimant for residential purposes.

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12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-154 Bhoomiheen Camp is a pucca structure and on the cutoff date of 01.01.2015 the first floor of the said Jhuggi was used by the Appellant/ Claimant for residential purposes.

13. 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 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 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-E, in support of his claim and prayed that DDA be directed to make allotment in his 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 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 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. 385/67/070.1.1/1530 dated 07.11.2022.

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 :-**

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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.

<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.

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- 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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

17. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18. As already pointed out above, condition contained in Part–B Para 10 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."

19. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued

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before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

20. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

21. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

22. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1971075 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter List of the year 2015 (Annexure-E).

23. It is pointed out that the Voter ID Card No. ARE 1971075 (Annexure-A) has been issued on 29.08.2014, which is few months before the cutoff date 01.01.2015, therefore, the question of his name appearing in the Voter List of the year's 2012, 2013, 2014 does not arise. The name of the Appellant/Claimant appears at Sl. No. 804 in the Voter List of the year 2015 (Annexure-E). The Appellant/ Claimant has also not tendered the Voter List of the year 2019 to show that his name also appears in the Voter List of the

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year of survey. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in the Voter List of the year 2015 but there is no material to show that his name also appears in the Voter List of the year of survey and further no Voter List of the year's 2012, 2013 and 2014 have been tendered. 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 his name does not appear in the Voter List of the year's 2012, 2013, 2014 & of the year of survey.

24. 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. A-154 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 Jhuggi No. A-154. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

25. The Appellant/Claimant has tendered the Passbook of Indian Overseas Bank (Annexure-D) thereby showing that the Appellant/Claimant had opened account on 12.02.2014. It is pointed out that the above-mentioned document is of no help to the Appellant/Claimant because this document does 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 separate Ration Card on the cut- off date of 01.01.2015 and further his name also does not appear in the Voter List of the year's 2012, 2013, 2014 & of the year of survey. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

26. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut- off date of 01.01.2015 and his name also does not appear in the Voter List of the year's 2012, 2013, 2014 & of the year of survey. The documents, Annexure-A to Annexure-E, are of no help to the Appellant/Claimant

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because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

27. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut- off date of 01.01.2015 and his name also does not appear in the Voter List of the year's 2012, 2013, 2014 & of the year of survey. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

28. 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. 385/67/070.1.1/1530 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

7/8/2023

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

7/8/2023

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 712 of 2023

Date of Institution: 07.02.2023

Date of Order: 07.08.2023

Present: Appellant/Claimant Khushboo D/o Mohd. Gulzar

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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. B-30, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-30 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer,

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Bhoomiheen Camp, duly communicated its order bearing No. 385/7/43.1/1623 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 712 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 03.08.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-30 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on 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 as per the policy guidelines issued by DD.

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7. The statement of the Appellant/Claimant, Khushboo, has been recorded before us on 03.08.2023 wherein she has stated that her parents, Md. Guljar & Rabia Begum, are having two sons, Ashiq & Shahrukh, and three daughters. Mahak, Muskan & Khushboo. All the children except Mahak are married. Ashiq is married with Noori and having two children Aayaan & Azhar. Shahrukh is married with Amrit and having one son Tehmur. Muskan is married with Vicky and she is living in her matrimonial home in Govindpuri, Delhi. Khushboo (Appellant/Claimant) is married with Fakhruddin and is living Bhoomiheen Camp, Kalkaji.

8. The Appellant/Claimant has stated that her parents, Md. Guljar & Rabia Begum, are having a double storey Jhuggi No. B-30 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

9. The Appellant/Claimant has stated that her parents, Md. Guljar & Rabi Begum, along with the families of their sons, Ashiq & Shahrukh and their unmarried daughter, Mehak, are living on the ground floor of the Jhuggi No. B-30 and regarding that DDA has made allotment in favour of his mother Rabia Begum. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that she along her husband Fakhruddin is living on the first floor of Jhuggi No. B-30. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. B-30 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 712 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-H, in support of her claim and prayed that DDA be directed to make allotment in her favour.

11. DDA has furnished the survey record along with eleven video clips pertaining to Jhuggi No. B-30. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 03.08.2023 wherein the Appellant/Claimant has stated that the four video clips pertain to the ground of Jhuggi No. B-30 in which her mother Rabi Begum is seen and further, her room & kitchen are also seen. The next seven video clips pertain to the first floor of Jhuggi No. B-30 in which the Appellant/Claimant Khushboo is seen and further her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips

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has duly proved that the double storey Jhuggi No. B-30 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the ground floor has been used for residential purposes by her parents, Md. Guljar & Rabi Begum, and the first floor is used for residential purposes by the Appellant/ Claimant.

12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-30, Bhoomiheen Camp is a pucca structure and the ground floor has been used for residential purposes by her parents, Md. Guljar & Rabi Begum, and the first floor is used for residential purposes by the Appellant/ Claimant.

13. 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 first floor 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-H, in support of her claim and prayed that DDA be directed to make allotment in her favour

15. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the 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 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. 385/7/43.1/1623 dated 07.11.2022.

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

> **"Part-B**
> **<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.
>
> **<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>**

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

17. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

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

19. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

20. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

21. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

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22. The Appellant/Claimant has tendered her Voter ID Card No. ARE 1345248 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2015 (Annexure-G) and Voter List of the year 2019 (Annexure-H).

23. It is pointed out that the Voter ID Card No. ARE 1345218 (Annexure-A) has been issued on 27.10.2008, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 873 in the Voter List of the year 2015 (Annexure-G) and at Sl. No. 925 in the Voter List of the year 2019 (Annexure-H). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and her name also appears in at least on the voter list of the year's 2015 & also in the year of survey.

24. The Appellant/Claimant has admitted that she 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. B-30 regarding which she 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 Jhuggi No. B-30. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

25. The Appellant/Claimant has tendered Voter ID Card No. ARE 1135078 (Annexure-D) & Aadhar Card (Annexure-E) of her husband Fakhruddin and Passbook of PNB (Annexure-F).

26. It is pointed out that the Voter ID Card No. ARE 1135078 (Annexure-A) has been issued on 13.12.2021, much after the cutoff date 01.01.2015. The Passbook of PNB (Annexure-F) shows that the Appellant/Claimant had opened the account on 23.09.2014. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-H, 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 separate Ration Card on the cutoff date of 01.01.2015 in spite of the fact that she is claiming allotment against the upper floor.

28. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-30 regarding which she is claiming allotment from DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

29. 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. 385/7/43.1/1623 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

30. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 402 of 2023

Date of Institution: 29.11.2022

Date of Order: 08.08.2023

Present: None for the Appellant/ Claimant Rinku Shah W/o Manu Shah S/o Jadunath

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 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. B-95, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-237 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/6/40.1/1207 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the

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same, the present Appeal No. 402 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-95 was found to exist on the upper floor but she had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists 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 his by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as she has never appeared before us. The perusal of the Zimni Orders shows that the Appeal was put up before us for the first time on 19.01.2023 but the Appellant/ Claimant had failed to appear on

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19.01.2023 and the matter was fixed for 06.02.2023 for procuring her presence. But the Appellant/ Claimant had failed to appear on 06.02.2023 and accordingly the Notice for Appearance was issued for 27.03.2023. But the Appellant/ Claimant did not appear on 27.03.2023 and accordingly fresh notice for 26.04.2023 was issued to procure the appearance of the present Appellant/ Claimant. But she had failed to appear on 26.04.2023. Fresh notice was issued on 26.04.2023 to procure her presence for 10.05.2023. But the file was taken up on 08.05.2023 as we had not conducted proceedings on 10.05.2023 and the appeal was fixed for 15.06.2023. But the file was again taken up on 30.05.2023 and the appeal was fixed for 04.08.2023 to give priority to other cases and fresh notice was issued to procure his presence for 04.08.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 04.08.2023 in spite of due service.

7. On 04.08.2023 fresh notice was issued for 07.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

8. However, still none appeared on 07.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 08.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

9. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 08.08.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 403 of 2023 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether she is entitled for alternate allotment as per policy guidelines issued by DDA.

10. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that

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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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

11. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & Ration Card etc. as on 01.01.2015 and 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. The documents available on file 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.

12. In view of the matter the present we have no hesitation in holding that 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. 385/6/40.1/1207 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No.402 of 2023 instituted on 29.11.2022 is dismissed being devoid of any merit.

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

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 403 of 2023

Date of Institution: 29.11.2022

Date of Order: 08.08.2023

Present: None for the Appellant/ Claimant Sunita Shah W/o Chetan Shah

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 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. B-95, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-237 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/6/42.2/1208 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the

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same, the present Appeal No. 403 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person in spite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-95 was found to exist on the upper floor but she had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists 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 his by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as she has never appeared before us except on one date, i.e, 19.01.2023. The perusal of the Zimni Orders shows that the Appeal was put up before us for the first time on 19.01.2023 and after conducting oral

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enquiry the matter was fixed for 06.02.2023 for tendering of documents by the parties in favour of their respective claim/stand. But the Appellant/ Claimant had failed to appear on 06.02.2023 and accordingly the Notice for Appearance was issued for 27.03.2023. But the Appellant/ Claimant did not appear on 27.03.2023 and accordingly fresh notice for 26.04.2023 was issued to procure the appearance of the present Appellant/ Claimant. But she had failed to appear on 26.04.2023. Fresh notice was issued on 26.04.2023 to procure her presence for 10.05.2023. But the file was taken up on 08.05.2023 as we had not conducted proceedings on 10.05.2023 and the appeal was fixed for 15.06.2023. But the file was again taken up on 30.05.2023 and the appeal was fixed for 04.08.2023 to give priority to other cases and fresh notice was issued to procure his presence for 04.08.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 04.08.2023 in spite of due service.

7. On 04.08.2023 fresh notice was issued for 07.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

8. However, still none appeared on 07.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 08.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

9. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 08.08.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 403 of 2023 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether she is entitled for alternate allotment as per policy guidelines issued by DDA.

10. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that

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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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

11. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & Ration Card etc. as on 01.01.2015 and 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. The documents available on file 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.

12. In view of the matter the present we have no hesitation in holding that 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. 385/6/42.2/1208 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No.403 of 2023 instituted on 29.11.2022 is dismissed being devoid of any merit.

13. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 568 of 2023

Date of Institution: 06.12.2022

Date of Order: 08.08.2023

Present: Appellant/Claimant Lokeshwar Goswami S/o Mathura Goswami

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-96, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-96 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/6/46.1/1211 dated

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07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 568 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 28.07.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-96 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DD.

7. The statement of the Appellant/Claimant, Lokeshwar Goswami, has been recorded before us on 28.07.2023 wherein he has stated that his parents, Mathura & Sundarmati

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are having two sons, Lokeshwar & Mukesh and two daughters, Sanju & Shanti. All the children are married. Sanju is married with Surender and she is living in her matrimonial home in Bihar whereas Shanti is married with Manoj and she is living in her matrimonial home in West Bengal. Mukesh is married with Neha and having two children and he is living in Gurugram, Haryana. Lokeshwar (Appellant/Claimant) is married with Jyoti @ Soma and having two children, Sujal & Anushka.

8. The Appellant/Claimant has stated that his parents, Mathura & Sundarmati, are having a double storey Jhuggi No. B-96 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

9. The Appellant/Claimant has stated that his parents, Mathura & Sundarmati, are living on the ground floor of the Jhuggi No. B-96 and regarding that DDA has made allotment in favour of his mother Sundarmati. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that he along with his wife Jyoti @ Soma and both the children Sujal & Anushka, is living on the first floor of the Jhuggi No. B-96. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. B-96 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 568 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-H, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished the survey record along with eight video clips pertaining to Jhuggi No. B-96. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 28.07.2023 wherein the Appellant/Claimant has stated that the eight video clips pertain to the ground floor of the Jhuggi No. B-96 in which his mother Sundarmati is seen and further her room & kitchen are also seen. The Appellant/Claimant has stated that no video clips of the first floor got prepared by him but only the photographs were taken. It is pointed out that the photographs taken by the survey team are placed on file and the same corroborates his stand. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey pucca Jhuggi No. B-96 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purpose.

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12. Accordingly, we have no hesitation in holding that the Jhuggi No. B-96 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further the Appellant/ Claimant has been using the first floor of the said Jhuggi No. B-96 for residential purposes.

13. 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 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 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-H, in support of his claim and prayed that DDA be directed to make allotment in his 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 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 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. 385/6/46.1/1211 dated 07.11.2022.

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>**

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

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

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

17. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18. As already pointed out above, condition contained in Part–B Para 10 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."

19. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued

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before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

20. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

21. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

22. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1508975 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2012 (Annexure-G) and Voter List of the year 2019 (Annexure-H).

23. It is pointed out that the Voter ID Card No. ARE 1508975 (Annexure-A), has been issued on 01.02.2012, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 971 in the Voter List of the year 2012 (Annexure-G) and at Sl. No. 1035 in the Voter List of the year 2019 (Annexure-H). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a

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Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012 & also in the year of survey.

24. 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. B-96 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-F), which has been issued in favour of his mother Sundarmati and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. 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 Jhuggi No. B-96. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

25. The Appellant/Claimant has tendered Aadhar Card (Annexure-D) of his wife Jyoti and the Passbook of Allahabad Bank (Annexure-E).

26. It is pointed out that the Passbook of Allahabad Bank (Annexure-E) shows that the Appellant/Claimant had opened the account but the date of opening the account 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 his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not 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.

27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-H, 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 separate Ration Card on the cutoff date of 01.01.2015 in spite of the fact that he is claiming allotment against the upper floor.

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28. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-96 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, which make separate Ration Card a mandatory document for the upper floor.

29. 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. 385/6/46.1/1211 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

30. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 613 of 2023

Date of Institution: 09.12.2022

Date of Order: 08.08.2023

Present: Appellant/Claimant Vijay Pramanik S/o Kanai Pramanik

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-221, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-221 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No.

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385/67/050.2.2F/1523 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 613 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 28.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-221 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 upper floor as per the policy guidelines issued by DDA.

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7. The statement of the Appellant/Claimant, Vijay Pramanik, has been recorded before us on 28.07.2023 wherein he has stated that his parents, Kanai Pramanik & Kanak, are having four sons, Ajay, Vijay, Babulal & Devasish. Babulal is married with Lalita and having two children and he is living in Madanpur khaddar, Delhi. Devasish along with his wife and children is living in Tughlaqabad, Delhi. Ajay is married with Shikha and having two children and is living in Bhoomiheen Camp. Vijay (Appellant/Claimant) is married with Jhuma and having two children, Vinay & Arjun.

8. The Appellant/Claimant has stated that his parents, Kanai Pramanik & Kanak, are having a triple storey Jhuggi No. A-221 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the rear gali for going to the first floor directly from that side and further another iron ladder is placed on the first floor for going to the second floor. Further, the structure raised on the second floor is temporary Chhapar.

9. The Appellant/Claimant has stated that his parents, Kanai Pramanik & Kanak, are living on the ground floor of the Jhuggi No. A-221 regarding that DDA has made allotment in favour of his mother Kanak. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that his brother Ajay along with his wife Shikha and both the children is living on the first floor of the Jhuggi No. A-221 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the Appeal No. 526 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

7. The Appellant/Claimant has stated that he along with his wife Jhuma and both the sons, Vinay & Arjun, is living in the Chappar constructed on the second floor of the Jhuggi No. A-221. The Appellant/Claimant has sought allotment from DDA against the said Chappar on the second floor of the said Jhuggi No. A-221 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 613 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make allotment in his favour.

8. It is pointed out that both the appeals bearing Appeal No. 526 of 2023 and 613 of 2023 shall we decided separately on their individual merits.

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9. DDA has furnished the survey record along with five video clips pertaining to Jhuggi No. A-221. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 28.07.2023 wherein the Appellant/Claimant has stated that the two video clips pertain to the ground floor of the Jhuggi No. A-221 in which his mother Kanak is seen and further her room & kitchen are also seen. The third video clip pertains to the first floor of Jhuggi No. A-221 in which his brother Ajay is seen and further his room & kitchen are also seen. The next two video clips pertain to the second floor of Jhuggi No. A-221 in which his wife Jhuma is seen and further his room & kitchen are also seen and an iron ladder placed on the first floor for going to the second floor is also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. C-221 being used for residential purposes, was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and his mother Kanak were living on the ground floor whereas the family of his brother Vijay was living on the first floor and further the family of the present Appellant/Claimant was living on the second floor.

10. Accordingly, we have no hesitation in holding that the Jhuggi No. C-221 in Bhoomiheen Camp is a pucca triple storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and it was used for residential purposes and further Kanak (mother) as well as the family of Ajay (Appellant/Claimant of Appeal No. 526 of 2023) was living on the first floor and further the family of Vijay (Appellant/ Claimant of Appeal No. 613) was living on the second floor.

11. Now we shall first appraise the material placed on file to determine the eligibility on other parameters 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 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 second floor as per the policy guidelines issued by DDA.

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

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11. 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 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 he 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. 385/67/050.2.2F/1523 dated 07.11.2022.

12. 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 is being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

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

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

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- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

13. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

14. It is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part–B Para 10 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."

15. 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

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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.

16. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card 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: -

> *"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.*

17. 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 with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

18. 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"

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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) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

19. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015

GIST OF THE POLICY

20. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

21. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the

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second floor, is entitled to seek allotment from DDA and further 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.

22. 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 he 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.

23. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

13. The Appellant/Claimant has tendered the Voter ID Card No. CXY 1354471 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-K) and Voter List of the year 2019 (Annexure-L).

14. It is pointed out that the Voter ID Card No. CXY 1354471 (Annexure-A) has been issued on 24.11.2002, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 255 in the Voter List of the year 2014 (Annexure-K) and at Sl. No. 311 in the Voter List of the year 2019 (Annexure-L). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 & also in the year of survey.

15. 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. A-221 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered Ration Card (Annexure-J), which has been issued in favour of his Father, Kanai, on 22.08.2002 and the name of the Appellant/Claimant is mentioned. The fact

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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 Jhuggi No. A-221 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

16. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1766992 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Jhuma as well as the Electricity Bill (Annexure-H) and Passbook of HDFC Bank (Annexure-I).

17. It is pointed out that the Voter ID Card No. ARE 1766992 (Annexure-D) of his wife Jhuma has been issued on 10.09.2013. The Electricity Bill (Annexure-H) shows that the connection has been taken by his Father, Kanai, on 11.06.2008 on the ground floor of the Jhuggi No. A-221, thereby, showing that the Appellant/Claimant was not having electricity connection on the second floor of the Jhuggi No. A-221 regarding which he is claiming allotment from DDA. The Passbook of HDFC Bank (Annexure-I) shows that the Appellant/Claimant has opened the account on 10.05.2018, much after the cutoff date of 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

18. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and further he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy. The documents, Annexure-A to Annexure-L, 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.

19. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. A-221 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and

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further he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-221 regarding which he is claiming allotment from DDA. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

20. 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. 385/67/050.2.2F/1523 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

21. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 617 of 2023

Date of Institution: 14.12.2022

Date of Order: 08.08.2023

Present: Appellant/Claimant Pawan Gupta S/o Deep Chand Gupta

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-267, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-267 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/58/009.1-

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A/1119 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 617 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 07.08.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-267 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 second floor as per the policy guidelines issued by DD.

7. The statement of the Appellant/Claimant, Pawan Gupta, has been recorded before us on 07.08.2023 wherein he has stated that his parents, Deep Chand & Rani, are having

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two sons; Pawan & Hardesh and one daughter Khusboo. All the children are married. Khusboo is married with Nandu and she is living in her matrimonial home in Nazafgarh, Delhi. Pawan is married with Maina and having one son, Prem. Hardesh (Appellant/Claimant) is married with Usha and having one daughter Meesa.

8. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi bearing No. A-267 and it comprises of one room on each floor and a pucca staircase has been constructed outside for going to the upper floor.

9. The Appellant/Claimant has stated that his parents, Deep Chand & Rani, are living on the ground floor of the Jhuggi no. A-267 and regarding that DDA has made allotment in favour of his mother Rani. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that his brother Hardesh along with his wife Usha & daughter, Meesa, is living on the first floor of the Jhuggi No. A-267 and regarding that Hardesh has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 642 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Maina & son Prem is living on the second floor of the Jhuggi No. A-267. The Appellant/Claimant has sought allotment from DDA against the second floor of the said Jhuggi No. A-267 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 617 of 2023 before the Appellate Authority for redressal. 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.

12. It is pointed out that both the Appeals bearing Appeal No. 617 of 2023 & Appeal No. 642 of 2023 shall be decided separately on their individual merits.

13. DDA has furnished the survey records along with five video clip of the Jhuggi No. A-267. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 07.08.2023 wherein the Appellant/Claimant has stated that two video clips pertain to the ground floor of the Jhuggi No. A-267 in which his parents,

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Deep Chand & Rani, are seen and further, their room & kitchen are also seen. The next two video clips pertain to the first floor of the Jhuggi No. A-267 in which Usha W/o Hardesh (Appellant/Claimant of Appeal No. 642) is seen and further, their room and kitchen are also seen and a pucca staircase going from the ground floor to the first floor is also seen. The next one video pertains to the second floor of the Jhuggi No. A-267 in which Pawan (Appellant/Claimant of Appeal No. 617) is seen but it is a "Gumti" constructed over the staircase and no room & kitchen on the first floor is seen.

14. This shows that both the brothers, Hardesh (Appellant/Claimant of Appeal No. 642) & Pawan (Appellant/Claimant of Appeal No. 617) have concocted a wrong & false story that Jhuggi No. A-267 is a triple storey structure but it is found to be double storey structure by us. It shows that they have concocted false story in collusion with each other & other family members so that Pawan can get allotment against the second floor and in furtherance of their conspiracy and they have even also got the survey conducted of "Gumti" thereby alleging that it was a separate dwelling unit. Thus the Pawan (Appellant/Claimant of Appeal No. 617) has come forward with a wrong & false story that he was living separately & independently on the second floor to grab allotment from DDA on false claim. This shows that the Pawan (Appellant/Claimant of Appeal No. 617) was not living separately and independently on the second floor of the Jhuggi No. A-267 as it is found to be a double storey structure and accordingly the question of living on the second floor does not arise but in order to grab allotment from DDA Pawan had submitted wrong claim in collusion with his family members to maximize allotments and has submitted false claim against the second floor of the Jhuggi No. A-267 to grab allotment from DDA on false claim.

15. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the Jhuggi No A-267 is not a triple storey Jhuggi but it is a double storey structure and it was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by his parents, Deep Chand & Rani, whereas the first floor is used for residential purposes by Hardesh (Appellant/Claimant of Appeal No. 642). However, the present Appellant/Claimant is not found to be living separately & independently on the second floor of the Jhuggi No. A-267 as it is found to be a double storey structure and accordingly the question of living on the second floor does not arise but in order to grab allotment from DDA he

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had submitted wrong claim in collusion with his family members to maximize allotments and has submitted false claim against the second floor of the Jhuggi No. A-267 to grab allotment from DDA on false claim. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA

16. Now we shall first appraise the material placed on file to determine the eligibility on other parameters 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 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 second floor 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 against the second floor of the Jhuggi No. A-267.

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. 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 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 he has claimed allotment against

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the second floor, which is not included in the definition of upper floor and further he 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. 385/58/009.1-A/1119 dated 07.11.2022.

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 is 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

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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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

20. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

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DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

21. It is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part–B Para 10 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. 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.

23. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card 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: -

"13. Gender and number:- In all Central Acts and Regulations unless there is anything repugnant in the subject or context,-

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(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.

24. 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 with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

25. 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) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

26. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This make it clear that as per DDA policy, the dweller

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claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015 cutoff date of 01.01.2015

GIST OF THE POLICY

27. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

28. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further 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.

29. 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 he 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.

30. 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 & a separate Ration Card, on the

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cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

31. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1518181 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2015 (Annexure-G) and Voter List of the year 2019 (Annexure-H).

32. It is pointed out that the Voter ID Card No. ARE 1518181 (Annexure-A) has been issued on 10.01.2012, much prior to the cutoff date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 27 in the Voter List of the year 2015 (Annexure-G) and at Sl. No. 37 in the Voter List of the year 2018 (Annexure-H). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2015 & also in the year of survey

33. 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. A-267 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the Ration Card (Annexure-F), which has been issued in favour of his mother Rani Gupta on 01.11.2014 and the name of the Appellant/Claimant has been mentioned. 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 second floor of the Jhuggi No. A-267. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

34. The Appellant/Claimant has tendered Aadhar Card (Annexure-D) of his wife Maina and Electricity Bill (Annexure-E).

35. It is pointed out that the Electricity Bill (Annexure-E) shows that the connection has been taken by his mother Rani Gupta on 30.05.2008 on the ground floor of the Jhuggi No. A-267 thereby showing that the Appellant/Claimant was not having an electricity

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connection on the address of second floor of the Jhuggi No. A-267 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

36. The material placed on file shows that the present Appellant/Claimant is not found to be living separately & independently on the second floor of the Jhuggi No. A-267 as it is found to be a double storey structure and accordingly the question of living on the second floor does not arise but in order to grab allotment from DDA he had submitted wrong claim in collusion with his family members to maximize allotments and has submitted false claim against the second floor of the Jhuggi No. A-267 to grab allotment from DDA on false claim and further the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy. The documents, Annexure-A to Annexure-H, 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.

37. Accordingly, we have no hesitation in holding that the present Appellant/Claimant is not found to be living separately & independently on the second floor of the Jhuggi No. A-267 as it is found to be a double storey structure and accordingly the question of living on the second floor does not arise but in order to grab allotment from DDA he had submitted wrong claim in collusion with his family members to maximize allotments and has submitted false claim against the second floor of the Jhuggi No. A-267 to grab allotment from DDA on false claim and further the Jhuggi on the second floor bearing No. A-267 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and

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further also he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

38. 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. 385/58/009.1-A/1119 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

39. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 630 of 2023

Date of Institution: 26.12.2023

Date of Order: 08.08.2023

Present: Appellant/ Claimant Anju Burman W/o Tarak D/o Virendra Chandra Burman

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 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 on the ground floor of Jhuggi bearing No. B-417, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-417 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the

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claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/26/137.1/886 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 630 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 28.07.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-417 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on 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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and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DD.

7. The statement of the Appellant/Claimant, Anju Burman, has been recorded before us on 28.07.2023 wherein she has stated that her in-laws, Nivaram & Sumitra, are having five sons Montu, Gorang, Vijay, Shivash & Tarak and three daughters, Ganga, Asha & Basanti. Both Nivaram & Sumitra had expired about 40 years ago. All the children are married. All the three daughters Ganga, Asha & Basanti are living in their respective matrimonial home in West Bengal. Montu is married with Srimati and having four children and he along with his family is living in Bihar. Gorang is married with Seema and having two children. Vijay is married with Reena and having three children. Shivash was married with Hemanti and having two children, Sushmita & Tapush. Shivash had expired and Hemanti along with both the children is living in Tughlakabad. Gorang, Vijay & Tarak along with their respective families are living in Bhoomiheen Camp. Tarak is married with Anju (Appellant/Claimant) and having two children, Kamal & Ruchi. Tarak Burman had expired on 09.11.2013 and his Death Certificate is (Annexure-F).

8. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. B-417 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

9. The Appellant/Claimant has stated that Hemanti is running a shop on the ground floor of the Jhuggi No. B-417. This shop has been rented out by Hemanti to her brother-in-law Gaurang for running a grocery shop. Whereas Hemanti along with her both the children is living in Tughlakabad. Hemanti has sought allotment from DDA against the ground floor of the said Jhuggi No. B-417 which is used solely for commercial purpose but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the Appeal No. 686/2023 before the Appellate Authority for redressal. It is pointed out that the Appeal No. 686/2023 has already been rejected on its merit on 14.06.2023.

10. The Appellant/Claimant has stated that she, along with she along her both the children, Kamal & Ruchi, is living on the first floor of the Jhuggi No. B-417. The

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Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. B-417, but her claim has also been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 630 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-L, in support of her claim and prayed that DDA be directed to make allotment in her favour.

11. DDA has furnished the survey record along with seven video clips pertaining to Jhuggi No. B-417.The video clips were played before the Appellant/Claimant when her statement was recorded before us on 28.07.2023 wherein she has stated that four video clips pertain to the ground floor of Jhuggi No.B-417 in which shop on the ground floor is clearly seen and further the Hemanti is also seen standing inside the shop. Three video clips pertain to the first floor of the Jhuggi No. B-417 in which the room & kitchen of the Appellant/Claimant are seen further, a pucca staircase constructed outside in gali and used for going from the ground floor to the first floor is also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey pucca Jhuggi No. B-417 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purpose.

12. Accordingly, we have no hesitation in holding that the Jhuggi No. B-417 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further the Appellant/ Claimant has been using the first floor of the said Jhuggi No. B-417 for residential purposes.

13. 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 first floor as per the policy guidelines issued by DDA.

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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-L, in support of his claim and prayed that DDA be directed to make allotment in his 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 separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/26/137.1/886 dated 07.11.2022.

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.

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

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

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DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

17. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18. As already pointed out above, condition contained in Part–B Para 10 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."

19. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

20. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012,

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2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

21. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

22. The Appellant/Claimant has tendered her Voter ID Card No. CXY 1085588 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-K) and Voter List of the year 2019 (Annexure-L).

23. It is pointed out that the Voter ID Card No. CXY 1085588 (Annexure-A) has been issued on 11.03.2002, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 431 in the Voter List of the year 2014 (Annexure-K) and at Sl. No. 503 in the Voter List of the year 2019 (Annexure-L). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name appears in the voter list of the year's 2014 & also in the year of survey.

24. 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 upper floor of the Jhuggi No. B-417 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered two Ration Cards (Annexure-D & Annexure-E). The first Ration Card (Annexure-D) has been issued in favour of her father-in-law, Nivaran Burman on 23.04.2010 and the name of her husband is mentioned but the name of the

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Appellant/Claimant is not mentioned. The new Ration Card (Annexure-E) has been issued in favour of the Appellant/Claimant on 01.02.2018, much after the cut off date of 01.01.2015. 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. B-417 regarding which she 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

25. The Appellant/Claimant has tendered the Electricity Bill (Annexure-G), Passbook of PNB (Annexure-H) as well as Voter ID Card No. CXY 1086404 (Annexure-I) & Aadhar Card (Annexure-J) of her husband Tarak Burman.

26. It is pointed out that the Electricity Bill (Annexure-G) shows that the electricity connection has been taken by her brother-in-law, Shivchand on 23.05.2008 on the address of the ground floor of the Jhuggi No. B-417 thereby showing that the Appellant/Claimant was not having an electricity connection on the first floor of the Jhuggi no. B-417 regarding which she is claiming allotment from DDA. The Passbook of PNB (Annexure-H) shows that the Appellant/Claimant had opened the account on 12.12.2013. Voter ID Card No. CXY 1086404 (Annexure-I) of her husband Tarak Burman has been issued on 11.03.2002. 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 separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she has claimed allotment against the first floor of Jhuggi No. B-417. The documents, Annexure-A to Annexure-L, 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.

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28. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. B-417 regarding which she has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

29. 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. 385/26/137.1/886 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

30. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 642 of 2023

Date of Institution: 14.12.2022

Date of Order: 08.08.2023

Present: Appellant/Claimant Hardesh Gupta S/o Deep Chand Gupta

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-267, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-267 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/58/009.2-

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A/1118 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 642 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 07.08.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-267 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DD.

7. The statement of the Appellant/Claimant, Hardesh Gupta, has been recorded before us on 07.08.2023 wherein he has stated that his parents, Deep Chand & Rani, are having two sons; Pawan & Hardesh and one daughter Khusboo. All the children are married.

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Khusboo is married with Nandu and she is living in her matrimonial home in Nazafgarh, Delhi. Pawan is married with Maina and having one son, Prem. Hardesh (Appellant/Claimant) is married with Usha and having one daughter Meesa.

8. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi bearing No. A-267 and it comprises of one room on each floor and a pucca staircase has been constructed outside for going to the upper floor.

9. The Appellant/Claimant has stated that his parents, Deep Chand & Rani, are living on the ground floor of the Jhuggi no. A-267 and regarding that DDA has made allotment in favour of his mother Rani. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that his brother Pawan along with his wife Maina & son Prem is living on the second floor of the Jhuggi No. A-267 and regarding that Pawan has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 617 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Usha & daughter Meesa is living on the first floor of the Jhuggi No. A-267. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-267 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 642 of 2023 before the Appellate Authority for redressal. 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.

12. It is pointed out that both the Appeals bearing Appeal No. 617 of 2023 & Appeal No. 642 of 2023 shall be decided separately on their individual merits.

13. DDA has furnished the survey records along with five video clip of the Jhuggi No. A-267. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 07.08.2023 wherein the Appellant/Claimant has stated that two video clips pertain to the ground floor of the Jhuggi No. A-267 in which his parents, Deep Chand & Rani, are seen and further, their room & kitchen are also seen. The next two video clips pertain to the first floor of the Jhuggi No. A-267 in which Usha W/o

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Hardesh (Appellant/Claimant of Appeal No. 642) is seen and further, their room and kitchen are also seen and a pucca staircase going from the ground floor to the first floor is also seen. The next one video pertains to the second floor of the Jhuggi No. A-267 in which his brother Pawan (Appellant/Claimant of Appeal No. 617) is seen but it is a "Gumti" constructed over the staircase and no room & kitchen on the first floor is seen.

14. This shows that both the brothers, Hardesh (Appellant/Claimant of Appeal No. 642) & Pawan (Appellant/Claimant of Appeal No. 617) have concocted a wrong & false story that Jhuggi No. A-267 is a triple storey structure but it is found to be double storey structure by us. It shows that they have concocted false story in collusion with each other & other family members so that Pawan can get allotment against the second floor and in furtherance of their conspiracy and they have even also got the survey conducted of "Gumti" thereby alleging that it was a separate dwelling unit. Thus the Pawan (Appellant/Claimant of Appeal No. 617) has come forward with a wrong & false story that he was living separately & independently on the second floor to grab allotment from DDA on false claim. This shows that the Pawan (Appellant/Claimant of Appeal No. 617) was not living separately and independently on the second floor of the Jhuggi No. A-267 as it is found to be a double storey structure and accordingly the question of living on the second floor does not arise but in order to grab allotment from DDA Pawan had submitted wrong claim in collusion with his family members to maximize allotments and has submitted false claim against the second floor of the Jhuggi No. A-267 to grab allotment from DDA on false claim.

15. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the Jhuggi No A-267 is not a triple storey Jhuggi but it is a double storey structure and it was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by his parents, Deep Chand & Rani, whereas the first floor is used for residential purposes by Hardesh (Appellant/Claimant of Appeal No. 642).

16. Accordingly, we have no hesitation in holding that the double storey Jhuggi No A-228, Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

17. 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

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Card &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 as per the policy guidelines issued by DDA.

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

19. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the 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 separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/58/009.2-A/1118 dated 07.11.2022.

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.

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

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

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

21. As per Part–B Para 6 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. This

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list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

22. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

24. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

25. Now we shall appraise the material placed on file to evaluate the eligibility on other

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parameters to determine 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 further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

26. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1518173 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-G) and Voter List of the year 2019 (Annexure-H).

27. It is pointed out that the Voter ID Card No. ARE 1518173 (Annexure-A) has been issued on 06.01.2022, much after the cutoff date of 01.01.2015. However, it is pointed out that the name of the Appellant/Claimant appears at Sl. No. 21 in the Voter List of the year 2014 (Annexure-G) and at Sl. No. 38 in the Voter List of the year 2019 (Annexure-H) and the number of his Voter ID Card has been mentioned to be bearing number ARE 1518173. It shows that the original Voter ID Card No. ARE 1518173 must have been issued much earlier to 06.01.2022 as it has been reflected in the Voter list of the year 2014 (Annexure-G) but the original is not placed on file to ascertain the date of its issuance. The duplicate Voter ID Card (Annexure-A) has been issued on 06.01.2022 but the original was in existence even in the year 2014 and that is why it has been reflected in the Voter List of the year 2014 (Annexure-G) and also in the Voter List of the year 2019 (Annexure-H). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 & also in the year of survey

28. 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. A-267 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the Ration Card (Annexure-E), which has been issued in favour of his mother Rani Gupta on 01.11.2014 and the name of the Appellant/Claimant has been mentioned. 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. A-267. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

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29. The Appellant/Claimant has tendered the Driving License (Annexure-D) and Electricity Bill (Annexure-E).

30. It is pointed out that the Driving License (Annexure-D) of the Appellant/Claimant has been issued on 26.09.2012. The Electricity Bill (Annexure-E) shows that the connection has been taken by his mother Rani Gupta on 30.05.2008 on the ground floor of the Jhuggi No. A-267 thereby showing that the Appellant/Claimant was not having an electricity connection on the address of first floor of the Jhuggi No. A-267 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

31. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-H, 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 separate Ration Card on the cutoff date of 01.01.2015 in spite of the fact that he is claiming allotment against the upper floor.

32. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-267 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, which make separate Ration Card a mandatory document for the upper floor.

33. 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

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bearing No. 385/58/009.2-A/1118 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

34. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 693 of 2023

Date of Institution: 30.01.2023

Date of Order: 08.08.2023

Present: Appellant/Claimant Anita D/o Chandi Burman

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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. B-390, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-390 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No.

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385/67/087.1.1/1537 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 693 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 07.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-390 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card, on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on 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 as per the policy guidelines issued by DD.

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8. The statement of the Appellant/Claimant, Anita, has been recorded before us 07.08.2023, wherein she has stated that her parents, Chandi Burman & Chapla, are having one son, Dulal and three daughters Tulsi, Shilpi & Anita. Chandi Burman had expired in the year 1990. All the children are married. Dulal is married with Jharna and having two children, Supriya & Tanuj. Tulsi is married with Sandeep and she is living in her matrimonial home in Okhla, Delhi. Shilpi is married with Lokesh and she is living in her matrimonial home in Faleda, Uttar Pradesh. Anita (Appellant/Claimant) is married with Vijay and having three children, Nomita, Anurag & Sushant.

9. The Appellant/Claimant has stated that her mother, Chapla, along with the family of Dulal is living on the ground floor of Jhuggi No. B-390 and regarding that DDA has made allotment in favour of her mother Chaple. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that she along with her husband Vijay and all the children, Nomita, Anurag & Sushant, is living on the first floor of the Jhuggi No. B-390. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. B-390 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the Present Appeal No. 693 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, 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 the survey record along with six video clips pertaining to Jhuggi No. C-390. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 07.08.2023 wherein the Appellant/Claimant has stated that the three video clips pertain to the ground floor of the Jhuggi No.C-390 in which her mother Chapla is seen and further, her room & kitchen are also seen. The next three video clips pertain to the first floor of the Jhuggi No. B-390 in which the Appellant/Claimant is seen and further her room and kitchen are also seen. 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-390 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the ground floor has been used for residential purposes by her mother Chapla along with the family of her son Dulal and the first floor is used for residential purposes by the Appellant/ Claimant.

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12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-390, Bhoomiheen Camp is a pucca structure and the ground floor has been used for residential purposes by her mother Chapla along with the family of her son, Dulal, and the first floor is used for residential purposes by the Appellant/ Claimant.

13. 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 first floor 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 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 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. 385/67/087.1.1/1537 dated 07.11.2022.

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 :-**

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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.

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

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

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- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

17. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18. As already pointed out above, condition contained in Part–B Para 10 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."

19. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

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20. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

21. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

22. The Appellant/Claimant has tendered Voter ID Card No. ARE 1155134 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2012 (Annexure-H) and Voter List of the year 2019 (Annexure-I).

23. It is pointed out that Voter ID Card No. ARE 1155134 (Annexure-A) has been issued on 28.08.2020, much after the cutoff date 01.01.2015. However, it is pointed out that the name of the Appellant/Claimant appears at Sl. No. 276 in the Voter List of the year 2012 (Annexure-H) and at Sl. No. 424 in the Voter List of the year 2019 (Annexure-I) and the number of his Voter ID Card has been mentioned to be bearing number ARE 1155134. It shows that the original Voter ID Card No. ARE 1155134 must have been issued much earlier to 28.08.2020 as it has been reflected in the Voter list of the year 2012 (Annexure-H) but the original is not placed on file to ascertain the date of its issuance. The duplicate Voter ID Card (Annexure-A) has been issued on 28.08.2020 but the original was in existence even in the year 2012 and that is why it has been reflected in the Voter List of the year 2012 (Annexure-H) and also in the Voter List of the year 2019 (Annexure-I). Therefore, we have no hesitation in holding that the Appellant/

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Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and her name also appears in at least on the voter list of the year's 2012 & also in the year of survey.

24. The Appellant/Claimant has admitted that she 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. B-390 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered her two Ration Card (Annexure-D & Annexure-E). The first Ration Card (Annexure-D) has been issued in favour of her mother Chapla Devi on 29.01.1999 and the name of the Appellant/Claimant is mentioned. The new Ration Card (Annexure-E) has been issued in favour of her mother Chapla Devi on 01.02.2018 and the name of the Appellant/Claimant is mentioned. 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 Jhuggi No. B-390. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

25. The Appellant/Claimant has tendered the Electricity Bill (Annexure-F) and the Passbook of Union Bank (Annexure-G).

26. It is pointed out the Electricity Bill (Annexure-F) shows that the electricity connection has been taken by her mother Chapla Devi on 31.05.2008 on the ground floor of the Jhuggi No. B-390, thereby, showing that the Appellant/Claimant was not having electricity connection on the first floor of the said Jhuggi No. B-390 regarding which she is claiming allotment from DDA. The Passbook of Union Bank (Annexure-G) shows that the Appellant/Claimant had opened the account but the date of opening of the account 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 separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-I, 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 separate Ration Card on the cutoff date of 01.01.2015 in spite of the fact that she is claiming allotment against the upper floor.

28. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-390 regarding which she is claiming allotment from DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

29. 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. 385/67/087.1.1/1537 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

8/8/2023

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

8/8/2023

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 708 of 2023

Date of Institution: 06.02.2023

Date of Order: 08.08.2023

Present: None for the Appellant/ Claimant Shubhajit Mandal S/o Gour Mandal

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-220, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-220 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/67/51.2/1526 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the

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same, the present Appeal No. 708 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-220 was found to exist on the upper floor but she had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists 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 his by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"In case of Upper Floor only First Floor is considered for alternative allotment"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as he has never appeared

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before us. The perusal of the Zimni Orders shows that the Appeal was put up before us for the first time on 20.02.2023 but the Appellant/ Claimant had failed to appear on 20.02.2023 and the matter was fixed for 27.03.2023 for procuring his presence. But the Appellant/ Claimant did not appear on 27.03.2023 and accordingly fresh notice for 26.04.2023 was issued to procure the appearance of the present Appellant/ Claimant. But he had failed to appear on 26.04.2023. Fresh notice was issued on 26.04.2023 to procure his presence for 10.05.2023. But the file was taken up on 08.05.2023 as we had not conducted proceedings on 10.05.2023 and the appeal was fixed for 16.06.2023. But the file was again taken up on 30.05.2023 and the appeal was fixed for 04.08.2023 to give priority to other cases and fresh notice was issued to procure his presence for 04.08.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 04.08.2023 in spite of due service.

7. On 04.08.2023 fresh notice was issued for 07.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

8. However, still none appeared on 07.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 08.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

9. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 08.08.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 403 of 2023 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether he is entitled for alternate allotment as per policy guidelines issued by DDA.

10. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that

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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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

11. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & Ration Card etc. as on 01.01.2015 and 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. The documents available on file 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.

12. In view of the matter the present we have no hesitation in holding that 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. 385/67/51.2/1526 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No.708 of 2023 instituted on 06.02.2023 is dismissed being devoid of any merit.

13. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 34 of 2022

Date of Institution: 18.11.2022

Date of Order: 09.08.2023

Present: Appellant/Claimant Varsha W/o Rajesh Kumar D/o Mahender

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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. B-285, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-285 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No.

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385/61/90.1/1306 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 34 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 04.08.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-285 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on 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 as per the policy guidelines issued by DD.

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7. The statement of the Appellant/Claimant, Varsha, has been recorded before us on 04.08.2023 wherein she has stated that her in-law Ram, Bharose & Puran Devi, are having two sons, Rahul & Rajesh and three daughters, Rajni, Poonam & Nagina. Ram Bharose had expired about thirteen years ago. Poonam & Nagina are unmarried. Rajni is married with Sanjay and she is living in her matrimonial home in Govindpuri, Delhi. Rahul is married with Poonam and having one daughter Divyanshi. Rajesh is married with Varsha (Appellant/Claimant) and having four children Meenakshi, Pari, Dev & Lavish.

8. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. B-285 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

9. The Appellant/Claimant has stated that her mother-in-law, Puran Devi, along with her unmarried daughters, Poonam & Nagina, is living on the ground of Jhuggi. No.B-285 and regarding that DDA has made allotment in favour of her mother-in-law, Puran Devi. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that she along with her husband Rajesh and all the four children, Meenkashi, Pari, Dev & Lavish, is living on the first floor of the Jhuggi No. B-285. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. B-285 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 34 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-K, in support of her claim and prayed that DDA be directed to make allotment in her favour.

11. DDA has furnished the survey record along with seven video clips pertaining to Jhuggi No. A-285. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 04.08.2023 in which the Appellant/Claimant has stated that the five video clips pertain to the ground floor of the Jhuggi No- B-285 in which her mother-in-law, Puran Devi, is seen and further, her room & kitchen are also seen. The next two video clips pertain to the first floor of the Jhuggi No. B-285 in which the Appellant/Claimant is seen and further, her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly

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proved that a double storey Jhuggi No. B-285 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by her mother-in-law, Puran Devi, whereas the first floor is used for residential purposes by the Appellant/ Claimant.

12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-285 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

13. 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 first floor as per the policy guidelines issued by DDA.

14. 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 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. 385/61/90.1/1306 dated 07.11.2022.

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 :-**

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

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

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

16. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17. As already pointed out above, condition contained in Part–B Para 10 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."

18. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having

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any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

19. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

20. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

21. The Appellant/Claimant has tendered her Voter ID Card No. ARE 1869600 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2015 (Annexure-J) and Voter List of the year 2019 (Annexure-K).

22. It is pointed out that the Voter ID Card No. ARE 1869600 (Annexure-A) has been issued on 25.03.2014, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 1144 in the Voter List of the year 2015 (Annexure-J) and at Sl. No. 858 in the Voter List of the year 2019 (Annexure-K). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a

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Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2015 & also in the year of survey.

23. The Appellant/Claimant has admitted that she 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. B-285 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered Ration Card (Annexure-I), which has been issued in favour of her mother-in-law Puran Devi and the name of the husband of the Appellant/Clamant is mentioned but that of the Appellant/Claimant is not mentioned and further, the date of issuance is also not mentioned. 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 Jhuggi No. B-285. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

24. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1153139 (Annexure-D), Aadhar Card (Annexure-B), & PAN Card (Annexure-C) of her husband Rajesh and the Passbook of Kotak Mahindra (Annexure-G) and Electricity Bill (Annexure-H).

25. It is pointed out that the Voter ID Card No. ARE 1153139 (Annexure-A) has been issued on 20.08.2014. The Passbook of Kotak Mahindra (Annexure-G) shows that the Appellant/Claimant had opened the account but the date of opening of the account is not mentioned. The Electricity Bill (Annexure-H) shows that the electricity connection has been taken by her father-in-law, Ram Bharose on 28.05.2008 on the ground floor of the Jhuggi No. B-285, thereby, showing that the Appellant/Claimant was not having electricity connection on the first floor of the Jhuggi No. B-285 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 separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor.

26. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to

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Annexure-K, 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 separate Ration Card on the cutoff date of 01.01.2015 in spite of the fact that she is claiming allotment against the upper floor.

27. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-285 regarding which she is claiming allotment from DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

28. 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. 385/61/90.1/1306 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

29. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 371 of 2023

Date of Institution: 29.11.2022

Date of Order: 09.08.2023

Present: Appellant/ Claimant Dilip Bapri S/o Pramatha Bapri

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 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 on the ground floor of Jhuggi bearing No. C-352, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-352 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

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has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/19/31.G/810 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 371 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 04.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-352 was found to exist but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 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.

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 a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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-352 as per the policy guidelines issued by DDA.

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7. 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 his claim and prayed that DDA be directed to make allotment in his favour. It is argued on behalf of the Appellant/ Claimant that he fulfills the criteria and possesses all the requisite documents. The Jhuggi bearing No. C-352 has been wrongly found to have been used solely for commercial purposes because it is put to mixed use for residential & commercial purposes on the cutoff date of 01.01.2015 as the ground floor was used as shop and the first floor was used for residential purposes and he has furnished requisite documents in proof of residence.

8. 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 the Appellant/ Claimant must have all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and her name must also 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. But the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he had made wrong claim in collusion with his family members to claim alternate allotment from DDA in spite of the fact that on the cutoff date of 01.01.2015 the Appellant/ Claimant was running the shop and further the Appellant/ Claimant was not living on the first floor of the Jhuggi No. C-352 regarding which he has claimed allotment from DDA. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/19/31.G/810 dated 07.11.2022.

9. Therefore, it has to be first seen as to what is the legal position with regard to running of shop under the policy guidelines issued by DDA. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.

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

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

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

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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."

10. The statement of the Appellant/Claimant, Dilip Bapari, has been recorded before us o 04.08.2023 wherein he has stated that his parents, Pramatha & Bimla, are having two sons, Dinesh & Dilp. Both the children are married. Dinesh is married with Gulabi and having two children, Deepak & Ritika. Dilip (Appellant/Claimant) is married with Pushpa and having two children, Divya & Saanvi.

11. The Appellant/Claimant has stated that his parents, Pramatha & Bimla, is having a double storey Jhuggi No. C-352 and it comprises of one room on each floor and further, an iron ladders is placed outside in the gali for going to the upper floor. The ground floor is used as "WELDING SHOP" by Appellant/Claimant whereas he along with his family is living on the first floor. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi No. C-352 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 371 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished the survey record along with two video clips pertaining to Jhuggi No. C-352. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 04.08.2023 wherein the Appellant/Claimant has stated that both the video clips pertain to the ground floor of the Jhuggi No. C-352 in which the Jhuggi is clearly seen to be a double storey structure and further there is a shop on the ground floor and the survey is also being conducted by his father Pramatha on the behalf of the Appellant/Claimant. However, the Appellant/Claimant has specifically admitted that he has not got the survey conducted on the first floor of the Jhuggi No. C-352 regarding which he is claiming allotment from DDA. Had the first floor of the Jhuggi No. C-352 used for residential purposes then the

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Appellant/Claimant certainly would have got the survey conducted on the first floor also. This shows that the first floor might have been used for purposes subservient to the welding shop and in order to conceal and hide the true facts the Appellant/Claimant had not got the survey conducted through his father on the ground floor but intentionally no survey on the first floor of the Jhuggi No. C-352 was got conducted. There is nothing to believe the self-serving statement of the Appellant/Claimant that the first floor of the Jhuggi No. C-352 was used for residential purposes. It accordingly negates the story put forward by the Appellant/Claimant.

13. The statement of the Appellant/Claimant shows that the present Appellant/Claimant, is running an "WELDING SHOP" from the ground floor of Jhuggi No. C-352 but there is nothing to corroborate his claim that on the cutoff date of 01.01.2015 the first floor was used for residential purposes by the Appellant/Claimant. Thus the Jhuggi No. C-352 is not put to mixed use for both residential and commercial purposes by the Appellant/Claimant but it is solely used by the Appellant/Claimant for commercial purposes running a "WELDING SHOP" and accordingly the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

14. The condition contained in Part–B Paras No. 8 & 9 of DDA policy detailed in Para no. 9 above runs as under:

> *"8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose."*
> *"9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person."*

15. As per our discussion above, the statement of the Appellant/Claimant has duly proved that on the cutoff date of 01.01.2015 that the present Appellant/Claimant, is running a "WELDING SHOP" from the Jhuggi No. C-352 and thus the Jhuggi No. C-352 has not been put to mixed use as commercial/residential or exclusively for residential purposes but it was solely used by the present Appellant/Claimant, for commercial

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purposes for running an "WELDING SHOP". Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

16. The bare perusal of the Policy detailed in Para no. 9 above shows that for claiming allotment the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

17. Now we shall first appraise the material placed on file to determine the eligibility of the present Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in 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.

18. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1180603 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2008 (Annexure-I), Voter List of the year 2012 (Annexure-J), Voter List of the year 2013 (Annexure-K) and Voter List of the year 2023 (Annexure-L).

19. It is pointed out that the Voter ID Card No. ARE 1180603 (Annexure-A) has been issued on 27.10.2008, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 809 in the Voter List of the year 2008 (Annexure-I), at Sl. No. 646 in the Voter List of the year 2012 (Annexure-J) and at Sl. No. 646 in the Voter List of the year 2013 (Annexure-K) and in all these Voter Lists Annexure-A to Annexure-K, the number of the Voter ID Card of the Appellant/Claimant is mentioned to be ARE 1180603.

20. However, it is pertinent to point out that no Voter Lists of the years 2015 and 2019 are placed on file to show that the Appellant/Claimant was living in Jhuggi No. C-352

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during this period and further he had used his Voter ID Card No. ARE 1180603 (Annexure-A) to cast his vote in 2015 (prior to 01-01-2015) & also in the year of survey.

21. It is pointed out that the name of the Appellant/Claimant appears at Sl. No. 1291 in the Voter Lists of the year 2023 (Annexure-L). It is also pertinent to point out in the Voter List (Annexure-L) the number of the Voter ID Card of the Appellant/Claimant is mentioned to be ARE 1461523 but this Voter ID Card has not been placed on the file by the Appellant/Claimant and accordingly the date of issuance cannot be ascertained. The Appellant/Claimant has failed to explain the reasons for getting the two Voter ID Cards bearing number ARE 1180603 (Annexure-A) and ARE 1461523 issued in his favour and this creates doubt and suspicion. But the fact remains that the Appellant/Claimant has not tendered the Voter Lists of 2015 & 2019 to show that he was living in Jhuggi No. C-352 during these years and he had also exercised his right of franchise during these years. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in the Voter List of the year 2008 (Annexure-I), Voter List of the year 2012 (Annexure-J), Voter List of the year 2013 (Annexure-K) but no Voter Lists of the year 2015 and 2019 have been tendered and accordingly his name does not appear in the Voter List of 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

22. The Appellant/Claimant has tendered Voter ID Card No. ARE 0944272 (Annexure-H) & Aadhar Card (Annexure-D) of his wife Pushpa Bapari, Electricity Bill (Annexure-E), the Passbook of SBI (Annexure-F) and Ration Card (Annexure-G).

23. It is pointed out that the Electricity Bill (Annexure-E) shows that the electricity connection has been taken by the Appellant/Claimant on 14.07.2008. The Passbook of SBI (Annexure-F) shows that the Appellant/Claimant had opened the account on 16.07.2009. The Voter ID Card No. ARE 0944272 (Annexure-H) of his wife Pushpa has been issued on 26.10.2008. The Appellant/Claimant has tendered the Ration Card (Annexure-G), which has been issued in his favour on 19.10.2010 and the name of his family members are mentioned. But it is pointed out that the abovementioned

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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 name of the Appellant/ Claimant does not appear in the voter list of the year's 2015 (prior to 01-01-2015) & also in the year of survey on the address of Jhuggi No. C-352 regarding which the Appellant/Claimant is claiming allotment from DDA and further the Jhuggi No. C-352 is not found to have put to mixed use for both residential and commercial purposes by the Appellant/Claimant but it is solely used by the Appellant/ Claimant for commercial purposes for running a "WELDING SHOP". Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

24. The material placed on file as well as the statement of the Appellant/ Claimant shows that on the cutoff date of 01.01.2015 the Appellant/ Claimant does not appear in the voter list of the year's 2015 (prior to 01-01-2015) & also in the year of survey on the address of Jhuggi No. C-352 regarding which the Appellant/Claimant is claiming allotment from DDA and further the Jhuggi No. C-352 is not found to have put to mixed use for both residential and commercial purposes by the Appellant/Claimant but it is solely used by the Appellant/ Claimant for commercial purposes for running a "WELDING SHOP". Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. The documents, Annexure-A to Annexure-L, 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. Therefore, 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 he is not entitled for alternate allotment.

25. 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. 385/19/31.G/810 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

(Ranbir Singh) 9/8/2023	**(Satish Ahlawat)** 9/8/2023	**(Rachna Tiwary)** 9/8/2023
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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 452 of 2023

Date of Institution: 30.11.2022

Date of Order: 09.08.2023

Present: Appellant/Claimant Saroj W/o Kamlesh D/o Rajpati

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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. B-503, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-503 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No.

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385/19/44.1/819 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 452 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 07.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-503 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on 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 as per the policy guidelines issued by DD.

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7. The statement of the Appellant/Claimant, Saroj, has been recorded before us on 07.08.2023 wherein she has stated that her in-laws, Ram Kishan & Ram Dulari, are having two sons, Kamal Kishore & two daughters Kamlawati & Sambal. Both the in-laws had expired about 8-10 years ago. All the children are married. Kamlawati is married with Swaminath and she is living in her matrimonial home in Azamgarh, Uttar Pradesh. Sambal is married with Dharmendra and she is living in her matrimonial home in Bihar. Kamal Kishore is married with Gyanti and having three children, Sheetal, Kinjal & Ritwik. Kamlesh is married with Saroj (Appellant/Claimant) and having two children, Ayush & Kasish.

8. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. B-503 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

9. The Appellant/Claimant has stated that Kamal Kishore along with his wife Gyanti and all the three children, Sheetal, Kinjal & Ritwik is living on the ground floor of Jhuggi No. B-503 and regarding that DDA has made allotment in favour of Gyanti. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that she along with her husband Kamlesh and both the children Ayush & Kasish, is living on the first floor of the Jhuggi No. B-503. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. B-503 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 452 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-M, in support of her claim and prayed that DDA be directed to make allotment in her favour.

11. DDA has furnished the survey record along with sixteen video clips pertaining to Jhuggi No. B-503. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 07.08.2023 in which the Appellant/Claimant has stated that the ten video clips pertain to the ground floor of the Jhuggi No.B-503 in which her sister-in-law, Gyanti W/o Kamal Kishore, is seen and her room & kitchen are also seen and further a pucca staircase going from the ground floor to the first floor is seen. The next six video clips pertain to the first floor of the Jhuggi No. B-503 in which

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the Appellant/Claimant is seen and further, her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. B-503 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by her sister-in-law Gayanti W/o Kamal Kishore, whereas the first floor is used for residential purposes by the Appellant/ Claimant.

12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-503 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

13. 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 first floor 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-M, in support of her claim and prayed that DDA be directed to make allotment in his 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 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 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. 385/19/44.1/819 dated 07.11.2022.

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

> **"Part-B**
> **<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.
>
> **<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.

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- 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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

17. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18. As already pointed out above, condition contained in Part–B Para 10 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."

19. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have

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

GIST OF THE POLICY

20. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

21. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

22. The Appellant/Claimant has tendered her Voter ID Card No. ARE 1158260 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2015 (Annexure-L) and Voter List of the year 2019 (Annexure-M).

23. It is pointed out that the Voter ID Card No. ARE 1158260 (Annexure-A) has been issued on 27.10.2008, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 715 in the Voter List of the year 2015 (Annexure-L) and at Sl. No. 735 in the Voter List of the year 2019 (Annexure-M). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2015 & also in the year of survey.

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24. The Appellant/Claimant has admitted that she 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. B-503 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered her two Ration Cards (Annexure-J & Annexure-K). The first Ration Card (Annexure-J) has been issued in favour of her father-in-law, Ram Kishan, on 10.08.2008 and the name of husband of the Appellant/Claimant is mentioned but that of the Appellant/Claimant is not mentioned. The second Ration Card (Annexure-K) has been issued in favour of sister-in-law, Gyanti W/o Kamal Kishore, and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. 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 Jhuggi No. B-503. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

25. The Appellant/Claimant has tendered the Voter ID Card No. CXY 1079128 (Annexure-D), Aadhar Card (Annexure-E) & Driving License (Annexure-F) of her husband, Kamlesh, as well as the Electricity Bill (Annexure-G) and the Passbooks of SBI (Annexure-H & Annexure-I).

26. It is pointed out the Voter ID Card No. CXY 1079128 (Annexure-D) of her husband Kamlesh has been issued on 08.03.2002 and Driving License (Annexure-F) of her husband Kamlesh has been issued on 17.04.2007. The Electricity Bill (Annexure-G) shows that the electricity connection has been taken by her father-in-law, Ram Kishan, on 13.05.2008 on the ground floor of the Jhuggi No. B-503, thereby, showing that the Appellant/Claimant was not having electricity connection on the first floor of the Jhuggi No. B-503 regarding which she is claiming allotment from DDA. The Passbook of SBI (Annexure-H) shows that the Appellant/Claimant had opened the account on 04.01.2016 and the Passbook of SBI (Annexure-I) shows that her husband, Kamlesh, had opened the account but the date of opening of account 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 separate Ration Card on the cut-off date of

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01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor.

27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-M, 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 separate Ration Card on the cutoff date of 01.01.2015 in spite of the fact that she is claiming allotment against the upper floor. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-503 regarding which she is claiming allotment from DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

28. 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. 385/19/44.1/819 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

29. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 583 of 2023

Date of Institution: 07.12.2023

Date of Order: 09.08.2023

Present: None for the Appellant/ Claimant Dharminder Singh S/o Chandre Deo Singh

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 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. R-36, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. R-36 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/26/172.2/909 dated 07.11.2022 to the present Appellant/Claimant.

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Aggrieved by the same, the present Appeal No. 583 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. R-36 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists 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 his by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

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6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as he has never appeared before us. The perusal of the Zimni Orders shows that the Appeal was put up before us for the first time on 07.02.2023 but the Appellant/ Claimant had failed to appear on 07.02.2023 and the matter was fixed for 27.03.2023 for procuring his presence. But the Appellant/ Claimant did not appear on 27.03.2023 and accordingly fresh notice for 26.04.2023 was issued to procure the appearance of the present Appellant/ Claimant. But he had failed to appear on 26.04.2023. Fresh notice was issued on 26.04.2023 to procure his presence for 10.05.2023. But the Appellant/ Claimant did not appear on 10.05.2023 and the fresh notice was issued for 08.06.2023. But the file taken up on 30.05.2023 and the appeal was fixed for 31.07.2023 to give priority to other cases and fresh notice was issued to procure his presence for 31.07.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 31.07.2023 in spite of due service.

7. On 31.07.2023 fresh notice was issued for 04.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

8. On 04.08.2023 fresh notice was issued for 07.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

9. However, still none appeared on 07.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 08.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

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10. However, still none appeared on 08.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 09.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

11. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 09.08.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 583 of 2023 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether he is entitled for alternate allotment as per policy guidelines issued by DDA.

12. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

13. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & Ration Card etc. as on 01.01.2015 and 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. The documents available on file 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.

14. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts.

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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. 385/26/172.2/909 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No.583 of 2023 instituted on 07.12.2023 is dismissed being devoid of any merit.

15. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 614 of 2023

Date of Institution: 12.12.2022

Date of Order: 09.08.2.2023

Present: Appellant/Claimant Ratan Kumari W/o Gashi Ram

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-369, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-369 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No.

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385/59/6.G/1160 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 614 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 07.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-O, in support of he 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-369 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on 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 as per the policy guidelines issued by DD.

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7. The statement of the Appellant/Claimant, Ratan Kumari, has been recorded before us on 07.08.2023 wherein she has stated that her in-laws, Seva Ram & Sampat, are having two sons; Ghasi Ram & Hargovind and two daughters; Pinki & Pana. All the children are married. Pinki is married with Shekhar and she is living in her matrimonial home in Khanpur and Pana is married with Deepak and she is living in her matrimonial home in Inderpuri, Delhi. Hargovind is married with Shanti but they are not having any child. Ghasi Ram is married with Ratan Kumari (Appellant/Claimant) and having three children; Malti, Rahul & Rajni.

8. The Appellant/Claimant has stated that her in-laws, Seva Ram & Sampat, are having a double storey Jhuggi bearing No. A-369 and it comprises of one room on each floor and an iron ladder is placed inside the room on the ground floor for going to the upper floor.

9. The Appellant/Claimant has stated that the first floor is not having independent access from the gali but an iron ladder has been placed inside the room on the ground floor for going to the upper floor. This shows that the ground & first floors of the Jhuggi No. A-369 are not separate & independent dwelling units because the first floor is not having an independent access from the gali. However, in order to reach the first floor, one has to use the iron ladder, which has been placed inside the room on the ground floor. Therefore, both the ground & first floors of Jhuggi No A-369 are not separate & independent dwelling units but both are part & parcel of one dwelling unit of her in-laws, Seva Ram & Sampat, bearing Jhuggi No. A-369 for all purposes.

10. Thus we have no hesitation in holding that the statement of the Appellant/Claimant accordingly shows that the first floor of the Jhuggi No. A-369 is not having any independent access from the gali but in order to reach the upper floor, one has to use the iron ladder, which has been placed inside the room on the ground floor. Therefore, the ground & first floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. A-369 of her in-laws, Seva Ram & Sampat, for all purposes.

11. The Appellant/Claimant has stated that her in-laws, Seva Ram & Sampat, are living on the ground floor of the Jhuggi No. A-369 and regarding that DDA has made allotment in favour of her mother-in-law, Sampat. These facts are not disputed by DDA.

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12. The Appellant/Claimant has stated that Hargovind was having joint kitchen with his parents whereas he along with his wife Shanti is living on rent on the first floor of the Jhuggi No. A-373 but out of greed and lust he had submitted representation for claiming allotment from DDA against the first floor of the Jhuggi No. A-369. The claim of Hargovind was rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 691 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

13. The Appellant/Claimant has stated that she along with her husband Ghasi Ram and all the three children, Malti, Rahul & Rajni, is living on the first floor of the said Jhuggi No. A-369. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. A-369 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 614 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-O, in support of her claim and prayed that DDA be directed to make allotment in her favour.

14. It is pointed out that both the Appeals bearing Appeal No. 614 of 2023 & Appeal No. 691 of 2023 shall be decided separately on their individual merits.

15. DDA has furnished the survey records along with three video clip of the Jhuggi No. A-369. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 07.08.2023 wherein the Appellant/Claimant has stated that first video clip pertains to the ground floor of the Jhuggi No. A-369 in which her mother-in-law, Sampat, is seen and her room is seen and further, she is also heard stating that she is having a kitchen on the first floor and furthermore, an iron ladder placed inside the room on the ground floor and used for going to the upper floor is also seen. The next two video clips pertain to the first floor of the Jhuggi No. A-369 in which the Appellant/Claimant Ratan Kumari is seen and further, her room is also seen and it is clearly seen that the roof is made with asbestos sheet. There is no video of the Jhuggi of Hargovind on the first floor because as per the statement of the Appellant/Claimant Hargovind had submitted a wrong and false claim in order to get allotment from DDA and he had concocted a wrong & false story that he was living on the first floor of the Jhuggi No. A-369 whereas in fact he was living on rent on the first floor of some other Jhuggi No. A-373.

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16. 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-369 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by her in-laws, Seva Ram & Sampat, whereas the first floor is used for residential purposes by Ratan Kumari (Appellant/ Claimant of Appeal No. 614 of 2023) and Hargovind (Appellant/ Claimant of Appeal No. 691of 2023) is not found to be living in Jhuggi No. A-369.

17. The admission of the Appellant/Claimant is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the time of survey and it shows that the ground & first floors of the Jhuggis No. A-369 are not having any independent access from the gali but in order to reach the upper floor one has to use the iron ladder, which has been placed inside the room on the ground floor. Therefore, the ground & first floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. A-369 of her in-laws, Seva Ram & Sampat, for all purposes.

18. Thereby keeping in view that the ground & first floors of Jhuggi No. A-369 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. A-369 of her in-laws, Seva Ram & Sampat, for all purposes and DDA has already made allotment in favour of her mother-in-law, Sampat, regarding the said Jhuggi No. A-369. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of Sampat W/o Seva Ram, therefore, Ratan Kumari (Appellant/Claimant of Appeal No. 614 of 2023) is not entitled to seek second allotment from DDA against the first floor and similarly Hargovind (Appellant/Claimant of Appeal No. 691 of 2023) also cannot seek allotment from DDA against that very Jhuggi No. A-369. But it seems that the Appellant/Claimant in collusion with other family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the Appellant/ Claimant cannot claim allotment against the first floor because it is part & parcel of single dwelling unit bearing Jhuggi No. A-369 of her mother-in-law Sampat W/o Seva Ram. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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19. Now we shall first appraise the material placed on file to determine the eligibility on other parameters 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 as per the policy guidelines issued by DDA.

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

21. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but 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 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. 385/59/6.G/1160 dated 07.11.2022.

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

"Part-B

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

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.

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

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

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

23. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

24. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

26. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required

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to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

27. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

28. The Appellant/Claimant has tendered her Voter ID Card No. ARE 1130889 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2012 (Annexure-N) and Voter List of the year 2019 (Annexure-O).

29. It is pointed out that the Voter ID Card No. ARE 1130889 (Annexure-A) has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 671 in the Voter List of the year 2012 (Annexure-N) and at Sl. No. 999 in the Voter List of the year 2019 (Annexure-O). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and her name also appears in the voter list of the year's 2012 and also in the year of survey.

30. The Appellant/Claimant has admitted that she 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. A-369 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered the Application dated 05.01.2019 (Annexure-M) for issuance of Ration Card thereby showing that she had made an application for issuance of Ration Card on 05.01.2019, much after the cut off date of 01.01.2015. Moreover, the Appellant/Claimant has also admitted that till now no Ration Card has been issued in her favour. Accordingly, the Application (Annexure-M) is not relevant and it does not create any right, title & interest in her favour to claim allotment from DDA as the policy/guidelines issued by DDA prescribes that the dweller claiming allotment against

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the first floor of the Jhuggi must have a separate Ration Card issued on the cut off date of 01.01.2015. 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 Jhuggi No. A-369. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

31. The Appellant/Claimant has tendered the Passbook of Union Bank of India (Annexure-D), Electricity Bill (Annexure-E) as well as the Voter ID Card No. ARE 1130863 (Annexure-F), Aadhar Card (Annexure-G), PAN Card (Annexure-H) & Driving Licence (Annexure-I) of her husband Ghasi Ram and Aadhar Cards of her children Malti, Rahul & Rajni (Annexure-J to Annexure-L respectively).

32. It is pointed out that the Passbook of Union Bank of India (Annexure-D) shows that the account has been opened on 08.09.2014 by the Appellant/Claimant. The Electricity Bill (Annexure-E) shows that her mother-in-law, Sampat, had taken the electricity connection on the address of ground floor of the Jhuggi No. A-369 thereby showing that the Appellant/Claimant was not having electricity connection on the address of first floor of the Jhuggi No. A-369 regarding which she is claiming allotment from DDA. The Voter ID Card no. ARE 1130863 (Annexure-F) of her husband Ghasi Ram has been issued on 28.07.2016, much after the cut off date of 01.01.2015. The Driving Licence (Annexure-I) of her husband Ghasi Ram has been issued on 04.01.2003. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor.

33. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and further both the floors of Jhuggi No. A-369 has also been found to be one dwelling unit bearing Jhuggi No. A-369 of her mother-in-law Sampat W/o Seva Ram for all purposes and DDA has already made allotment in favour of Sampat (mother-in-law of the Appellant/Claimant)

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regarding the said Jhuggi No. A-369. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. The documents, Annexure-A to Annexure-O, 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.

34. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 and further the ground & first floors of the Jhuggi No. A-369 has also been found to be part & parcel of one dwelling unit bearing Jhuggi No. A-369 of Sampat W/o Seva Ram for all purposes and DDA has already made allotment in favour of Sampat (mother-in-law of the Appellant/Claimant) regarding the said Jhuggi No. A-369 and accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

35. 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. 385/59/6.G/1160 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

36. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 628 of 2023

Date of Institution: 23.12.2023

Date of Order: 09.08.2023

Present: None for the Appellant/ Claimant Kamal Patra S/o Ghanshyam Patra

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-327-A, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-327-A 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/60/17.1/1248 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved

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by the same, the present Appeal No. 628 f 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-327-A was found to exist but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists 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 his by the Nodal Officer vide Rejection Order dated 07.11.2022 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.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

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6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as he has never appeared before us. The perusal of the Zimni Orders shows that the Appeal was put up before us for the first time on 10.02.2023 but the Appellant/ Claimant had failed to appear on 10.02.2023 and the matter was fixed for 27.03.2023 for procuring his presence. But the Appellant/ Claimant did not appear on 27.03.2023 and accordingly fresh notice for 26.04.2023 was issued to procure the appearance of the present Appellant/ Claimant. But he had failed to appear on 26.04.2023. Fresh notice was issued on 26.04.2023 to procure his presence for 10.05.2023. But the Appellant/ Claimant did not appear on 10.05.2023 and the fresh notice was issued for 19.06.2023. But the file taken up on 30.05.2023 and the appeal was fixed for 31.07.2023 to give priority to other cases and fresh notice was issued to procure his presence for 31.07.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 31.07.2023 in spite of due service.

7. On 31.07.2023 fresh notice was issued for 04.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

8. On 04.08.2023 fresh notice was issued for 07.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

9. However, still none appeared on 07.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 08.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter

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of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

10. However, still none appeared on 08.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 09.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

11. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 09.08.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 583 of 2023 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether he is entitled for alternate allotment as per policy guidelines issued by DDA.

12. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be 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.

13. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card etc. as on 01.01.2015 and 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. The documents available on file 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.

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14. In view of the matter the present we have no hesitation in holding that 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. 385/60/17.1/1248 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No.628 of 2023 instituted on 23.12.2023 is dismissed being devoid of any merit.

15. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 691 of 2023

Date of Institution: 30.01.2023

Date of Order: 09.08.2023

Present: Appellant/Claimant Hargovind S/o Ram Sewak @ Seva Ram

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-369, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-369 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No.

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385/59/6.G/1159 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 691 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 07.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-369 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DD.

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7. The statement of the Appellant/Claimant, Hargovind, has been recorded before us on 07.08.2023 wherein he has stated that his parents, Ram Sewak @ Seva Ram & Sampat, are having two sons; Ghasi Ram & Hargovind and two daughters; Pinki & Pana. All the children are married. Pinki is married with Shekhar and she is living in her matrimonial home in Khanpur and Pana is married with Deepak and she is living in her matrimonial home in Inderpuri, Delhi. Ghasi Ram is married with Ratan Kumari and having three children; Malti, Rahul & Rajni. Hargovind (Appellant/Claimant) is married with Shanti but they are not having any child.

8. The Appellant/Claimant has stated that his parents, Ram Sewak @ Seva Ram & Sampat, are having a double storey Jhuggi bearing No. A-369 and it comprises of one room on each floor and an iron ladder is placed inside the room on the ground floor for going to the upper floor.

9. The Appellant/Claimant has stated that the first floor is not having independent access from the gali but an iron ladder has been placed inside the room on the ground floor for going to the upper floor. This shows that the ground & first floors of the Jhuggi No. A-369 are not separate & independent dwelling units because the first floor is not having an independent access from the gali. However, in order to reach the first floor, one has to use the iron ladder, which has been placed inside the room on the ground floor. Therefore, both the ground & first floors of Jhuggi No A-369 are not separate & independent dwelling units but both are part & parcel of one dwelling unit of his parents, Ram Sewak @ Seva Ram & Sampat, bearing Jhuggi No. A-369 for all purposes.

10. Thus we have no hesitation in holding that the statement of the Appellant/Claimant accordingly shows that the first floor of the Jhuggi No. A-369 is not having any independent access from the gali but in order to reach the upper floor; one has to use the iron ladder, which has been placed inside the room on the ground floor. Therefore, the ground & first floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. A-369 of his parents, Ram Sewak @ Seva Ram & Sampat, for all purposes.

11. The Appellant/Claimant has stated that his parents, Ram Sewak @ Seva Ram & Sampat, are living on the ground floor of the Jhuggi No. A-369 and regarding that DDA has made allotment in favour of his mother, Sampat. These facts are not disputed by DDA.

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12. The Appellant/Claimant has stated that his brother Ghasi Ram along with his wife Ratan Kumari and all the three children, Malti, Rahul & Rajni, is living on the first floor of the said Jhuggi No. A-369. Ratan Kumari has sought allotment from DDA against the first floor of the Jhuggi No. A-369 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the Appeal No. 614 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

13. The Appellant/Claimant has stated that he is having joint kitchen with his parents in Jhuggi No. A-369 whereas he along with his wife Shanti is living on rent on the first floor of the Jhuggi No. A-373 but out of greed and lust he had submitted representation for claiming allotment from DDA against the first floor of the Jhuggi No. A-369. The claim of the Appellant/Claimant Hargovind was rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 691 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-I, in support of his claim and prayed that DDA be directed to make allotment in his favour.

14. It is pointed out that both the Appeals bearing Appeal No. 614 of 2023 & Appeal No. 691 of 2023 shall be decided separately on their individual merits.

15. DDA has furnished the survey records along with three video clip of the Jhuggi No. A-369. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 07.08.2023 wherein the Appellant/Claimant has stated that first video clip pertains to the ground floor of the Jhuggi No. A-369 in which his mother, Sampat, is seen and her room is seen and further, she is also heard stating that she is having a kitchen on the first floor and furthermore, an iron ladder placed inside the room on the ground floor and used for going to the upper floor is also seen. The next two video clips pertain to the first floor of the Jhuggi No. A-369 in which his sister-in-law Ratan Kumari W/o Ghasi Ram, is seen and further, her room is also seen and it is clearly seen that the roof is made with asbestos sheet. There is no video of the Jhuggi of the Appellant/Claimant Hargovind on the first floor because as per the statement of the Appellant/Claimant he had submitted a wrong and false claim in order to get allotment from DDA and he had concocted a wrong & false story that he was living on the first

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floor of the Jhuggi No. A-369 whereas in fact he was living on rent on the first floor of some other Jhuggi No. A-373.

16. 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-369 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by his parents, Ram Sewak @ Seva Ram & Sampat, whereas the first floor is used for residential purposes by Ratan Kumari (Appellant/ Claimant of Appeal No. 614 of 2023) and Hargovind (Appellant/ Claimant of Appeal No. 691of 2023) is not found to be living in Jhuggi No. A-369.

17. The admission of the Appellant/Claimant is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the time of survey and it shows that the ground & first floors of the Jhuggis No. A-369 are not having any independent access from the gali but in order to reach the upper floor one has to use the iron ladder, which has been placed inside the room on the ground floor. Therefore, the ground & first floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. A-369 of parents, Ram Sewak @ Seva Ram & Sampat, for all purposes.

18. Thereby keeping in view that the ground & first floors of Jhuggi No. A-369 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. A-369 of his parents, Ram Sewak @ Seva Ram & Sampat, for all purposes and DDA has already made allotment in favour of his mother, Sampat, regarding the said Jhuggi No. A-369. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of Sampat W/o Seva Ram, therefore, Ratan Kumari (Appellant/Claimant of Appeal No. 614 of 2023) is not entitled to seek second allotment from DDA against the first floor and similarly Hargovind (Appellant/Claimant of Appeal No. 691 of 2023) also cannot seek allotment from DDA against that very Jhuggi No. A-369. But it seems that the Appellant/Claimant in collusion with other family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the Appellant/ Claimant cannot claim allotment against the first floor because it is part & parcel of single dwelling unit bearing Jhuggi No. A-369 of his mother Sampat W/o Seva Ram and further the Appellant/ Claimant was admittedly living on rent in Jhuggi No. A-373 and

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not on the first floor of Jhuggi No. A-369 regarding which he has claimed allotment from DDA. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

19. Now we shall first appraise the material placed on file to determine the eligibility on other parameters 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 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 as per the policy guidelines issued by DDA.

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

21. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but 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 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. 385/59/6.G/1159 dated 07.11.2022.

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

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

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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.

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

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

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- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

23. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

24. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

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26. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

27. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

28. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1130871 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2012 (Annexure-H) and Voter List of the year 2019 (Annexure-I).

29. It is pointed out that the Voter ID Card No. ARE 1130871 (Annexure-A) has been issued on 01.03.2013, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 670 in the Voter List of the year 2012 (Annexure-H) and at Sl. No. 986 in the Voter List of the year 2019 (Annexure-I). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and her name also appears in the voter list of the year's 2012 and also in the year of survey.

30. 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. A-369 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 Jhuggi No. A-369. Therefore, we have no hesitation

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in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

31. The Appellant/Claimant has tendered the Driving Licence (Annexure-D), Electricity Bill (Annexure-E) and Passbooks of SBI (Annexure-F & Annexure-G respectively).

32. It is pointed out that the Driving Licence (Annexure-I) of the Appellant/Claimant has been issued on 05.07.2017. The Electricity Bill (Annexure-E) shows that his mother, Sampat, had taken the electricity connection on the address of ground floor of the Jhuggi No. A-369 but the material placed on file shows that the Appellant/Claimant was not living on the address of first floor of the Jhuggi No. A-369 regarding which he is claiming allotment from DDA. The Passbooks of SBI (Annexure-F & Annexure-G respectively) shows that the account has been opened on 09.01.2023 and 11.02.2011 respectively by 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 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 and further the Appellant/Claimant was not living on the address of first floor of the Jhuggi No. A-369 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 guidelines issued by DDA.

33. The material placed on file shows that the Appellant/Claimant was not living on the first floor of the Jhuggi No. A-369 regarding which he is claiming allotment from DDA and further the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and further both the floors of Jhuggi No. A-369 has also been found to be one dwelling unit bearing Jhuggi No. A-369 of his mother Sampat W/o Seva Ram for all purposes and DDA has already made allotment in favour of Sampat (mother of the Appellant/Claimant) regarding the said Jhuggi No. A-369. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. The documents, Annexure-A to Annexure-I, are of no help to the

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Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA.

34. Accordingly, we have no hesitation in holding that the Appellant/Claimant was not living on the first floor of the Jhuggi No. A-369 regarding which he is claiming allotment from DDA and further the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and further both the floors of Jhuggi No. A-369 has also been found to be one dwelling unit bearing Jhuggi No. A-369 of his mother Sampat W/o Seva Ram for all purposes and DDA has already made allotment in favour of Sampat (mother of the Appellant/Claimant) regarding the said Jhuggi No. A-369. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

35. 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. 385/59/6.G/1159 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

36. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 33 of 2022

Date of Institution: 18.11.2022

Date of Order: 10.08.2023

Present: None for the Appellant/ Claimant Rakesh Mistry S/o Upender Mistry

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-193, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-193 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/61/60.G/1293 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 33 of 2022 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-193 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"Husband-wife case"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as he has never appeared

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before us except on one date, i.e, 06.12.2022. The perusal of the Zimni Orders shows that the Appeal was put up before us for the first time on 06.12.2022 and after conducting oral enquiry the matter was fixed for 10.01.2023 for tendering of documents by the parties in favour of their respective claim/stand. But the Appellant/ Claimant had failed to appear on 10.01.2023 and accordingly the Notice for Appearance was issued for 24.02.2023 to procure the appearance of the present Appellant/ Claimant. But the Appellant/ Claimant did not appear on 24.02.2023 and accordingly fresh notice for 27.03.2023 was issued to procure the appearance of the present Appellant/ Claimant. But the Appellant/ Claimant did not appear on 27.03.2023 and accordingly fresh notice for 06.04.2023 was issued to procure the appearance of the present Appellant/ Claimant. But he had failed to appear on 06.04.2023. Fresh notice was issued on 06.04.2023 to procure her presence for 12.05.2023. But he had again failed to appear on 12.05.2023 and Fresh notice was issued to procure his presence for 14.06.2023. But the file was taken up on 30.05.2023 and the appeal was fixed for 04.07.2023 to give priority and fresh notice was issued to procure her presence for 04.07.2023. The Appellant/ Claimant did not appear on 04.07.2023 and thereafter on 20.07.2023 & 21.07.2023. On 21.07.2023 fresh notice was issued to procure his presence for 04.08.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 04.08.2023 in spite of due service.

7. On 04.08.2023 fresh notice was issued for 07.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on him mobile number.

8. However, still none appeared on 07.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 08.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on him mobile number.

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9. However, still none appeared on 08.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 09.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on him mobile number.

10. However, still none appeared on 09.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 10.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on him mobile number.

11. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 10.08.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 33 of 2022 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether he is entitled for alternate allotment as per policy guidelines issued by DDA.

12. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

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13. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & Ration Card etc. as on 01.01.2015 and 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. The documents available on file 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.

14. In view of the matter the present we have no hesitation in holding that 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. 385/61/60.G/1293 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No.33 of 2022 instituted on 18.11.2022 is dismissed being devoid of any merit.

15. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 41 of 2023

Date of Institution: 21.11.2022

Date of Order: 10.08.2023

Present: Appellant/Claimant Sarita W/o Vikram Kumar D/o Ram Millan Tiwari

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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. B-665, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-665 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/10/29.G/688 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by

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the same, the present Appeal No. 41 of 2022 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 07.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-665 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on 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 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Sarita, has been recorded before us on 07.08.2023 wherein he has stated that her in-laws, Ramakant & Poonam, are having

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three sons; Vikesh, Vikram & Vimal and two daughters, Mini & Suman. All the children except Suman are married. Mini is married with Binni and she is living in her matrimonial home in Gautam Nagar, Delhi. Vimal is married with Soni and having one daughter Pihu. Vikesh is married with Poonam and having one daughter Anika. Vikram is married with Sarita (Appellant/Claimant) and having one daughter Twinkle.

9. The Appellant/Claimant has stated that her in-laws, Ramakant & Poonam, are having a triple storey Jhuggi No. B-665 and it comprises of one room on each floor and a pucca staircase has been constructed inside the room on the ground floor for going to the upper floor.

10. The Appellant/Claimant has stated that the first and the second floors are not having independent access from the gali but a pucca staircase has been constructed inside the room on the ground floor for going to the upper floor. This shows that the first and the second floors of the Jhuggi No. B-665 are not separate & independent dwelling units because they are not having an independent access from the gali. However, in order to reach the first and the second floors, one has to use the pucca staircase has been constructed inside the room on the ground floor. Therefore, both the first and the second floors of Jhuggi No. B-665 are not separate & independent dwelling units but both are part & parcel of one dwelling unit of her in-laws, Ramakant & Poonam, bearing Jhuggi No. B-665 for all purposes.

11. Thus we have no hesitation in holding that the statement of the Appellant/Claimant accordingly shows that the first and the second floors of the Jhuggi No. B-665 are not having any independent access from the gali but in order to reach the upper floors, one has to use the pucca staircase, which has been constructed inside the room on the ground floor. Therefore, the ground, first & the second floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. B-665 of her in-laws, Ramakant & Poonam, for all purposes.

12. The Appellant/Claimant has stated that her in-laws, Ramakant & Poonam, along with their unmarried daughter Suman as well as the family of Vimal, are living on the ground floor of the Jhuggi No. B-665 and regarding that DDA has made allotment in favour of her mother-in-law, Poonam. These facts are not disputed by DDA.

13. The Appellant/Claimant has stated that Vikesh along with his wife Poonam and daughter Anika is living on the first floor of the Jhuggi No. B-665 and against that

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Vikesh has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, Vikesh has filed the Appeal No. 627 of 2022 before the Appellate Authority for redressal. These facts are not disputed by DDA.

14. The Appellant/Claimant has stated that she along with her husband Vikram and daughter Twinkle is living on the second floor of the Jhuggi No. B-665. The Appellant/Claimant has sought allotment from DDA against the second floor of the Jhuggi No. B-665, however, her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 41 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-J, and prayed that DDA be directed to make allotment in favour of her claim.

15. It is pointed out that both the appeals bearing Appeal No. 41 of 2022 and Appeal No. 627 of 2023 shall be placed separately on their respective claim.

16. DDA has furnished the survey records along with sixteen video clip of the Jhuggi No. B-665. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 07.08.2023 wherein the Appellant/Claimant has stated that seven video clips pertain to the ground floor of the Jhuggi No. B-665 in which her mother-in-law, Poonam is seen and her room & kitchen are also seen and further, a pucca staircase constructed inside her room on the ground floor and used for going to the upper floor is also seen. The next five video clips pertain to the first floor of the said Jhuggi No. B-665 in which Poonam, who is wife of the Vikesh (Appellant/Claimant of Appeal No. 627 of 2023) is seen and further, the room & kitchen are also seen and further, a pucca staircase constructed inside the room on the ground floor and used for going to the first floor is also seen. The next four video clips pertain to the second floor in which a pucca staircase constructed on the first floor and used for going to the second floor is seen and Sarita (Appellant/Claimant of Appeal No. 41 of 2022) is seen and further, her room & kitchen are also seen.

17. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a triple storey Jhuggi No. B-665 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by her in-laws, Ramakant & Poonam, whereas the first floor is

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used for residential purposes by Vikesh (Appellant/ Claimant of Appeal No. 627 of 2023) and the second floor is used for residential purposes by Sarita (Appellant/ Claimant of Appeal No. 627 of 2023).

18. The admission of the Appellant/Claimant is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the time of survey and it shows that the first and the second floors of the Jhuggis No. B-665 are not having any independent access from the gali but in order to reach the upper floors one has to use the pucca staircase, which has been constructed inside the room on the ground floor. Therefore, the first and the second floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. B-665 of her in-laws, Ramakant & Poonam, for all purposes.

19. Thereby keeping in view that the first and the second floors of Jhuggi No. B-665 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. B-665 of her in-laws, Ramakant & Poonam, for all purposes and DDA has already made allotment in favour of her mother-in-law, Poonam, regarding the said Jhuggi No. B-665. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of Poonam W/o Ramakant, therefore, Vikesh Kumar (Appellant/Claimant of Appeal No. 627 of 2023) is not entitled to seek second allotment from DDA against the first floor and similarly Sarita (Appellant/Claimant of Appeal No. 41 of 2022) also cannot seek allotment from DDA against the second floor of that very Jhuggi No. B-665. But it seems that the Appellant/Claimant in collusion with other family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the Appellant/ Claimant cannot claim allotment against the second floor because it is part & parcel of single dwelling unit bearing Jhuggi No. B-665 of her mother-in-law Poonam W/o Ramakant. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

20. Now we shall first appraise the material placed on file to determine the eligibility on other parameters 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

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whether she is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

21. 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.

22. 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 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 he 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. 385/10/29.G/688 dated 07.11.2022.

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

> **"Part-B**
> **<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 is being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

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

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

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- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

24. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

25. It is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part–B Para 10 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. 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.

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27. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card 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: -

> *"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.*

28. 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 with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

29. 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.

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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) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

30. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015

cutoff date of 01.01.2015

GIST OF THE POLICY

31. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

32. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further 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.

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33. 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 claimed allotment against the second floor, which is not included in the definition of upper floor under Part–B Para 10 of the policy.

34. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

35. The Appellant/Claimant has tendered her Voter ID card No. ARE 2124245 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-I) and Voter List of the year 2019 (Annexure-J).

36. It is pointed out that the Voter ID Card No. ARE 2124245 (Annexure-A) has been issued on 24.08.2012, much prior to the cut off date of 01.01.2015. Further, the name of the Appellant/Claimant appears at Sl. No. 1146 in the Voter List of the year 2014 (Annexure-I) and at Sl. No. 1182 in the Voter List of the year 2019 (Annexure-J). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appear in the Voter List of the year's 2014 & of the year of survey.

37. 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 the second floor of the Jhuggi No. B-665 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered the Ration Card (Annexure-H), which has been issued in favour of her mother-in-law, Poonam Devi, and the name of the husband of the Appellant/Claimant has been mentioned but that of the Appellant/Claimant is not mentioned and further, the date of issuance is also not mentioned. 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 the second floor of the Jhuggi No. B-665

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regarding which she 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

38. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1163039 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of her husband Vikram and Electricity Bill (Annexure-G).

39. It is pointed out that the Voter ID Card No. ARE 1163039 (Annexure-D) of her husband Vikram has been issued on 27.10.2008. The Electricity Bill (Annexure-G) shows that the electricity connection has been taken by her father-in-law, Ramakant, on 31.05.2008 on the address of ground floor of the Jhuggi No. B-665 thereby showing that the Appellant/Claimant was not having an electricity connection on the second floor of the Jhuggi No. B-665 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 his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor.

40. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the second floor of the Jhuggi No. B-665 regarding which she is claiming allotment from DDA and further she has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy and further all the three floors of Jhuggi No. B-665 has also been found to be one dwelling unit bearing Jhuggi No. B-665 of Poonam W/o Ramakant for all purposes and DDA has already made allotment in favour of Poonam (mother-in-law of the Appellant/Claimant) regarding the said Jhuggi No. B-665. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. The documents, Annexure-A to Annexure-J, 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.

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41. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the second floor of the Jhuggi No. B-665 regarding which she is claiming allotment from DDA and further she has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy and further all the three floors of Jhuggi No. B-665 has also been found to be one dwelling unit bearing Jhuggi No. B-665 of Poonam W/o Ramakant for all purposes and DDA has already made allotment in favour of Poonam (mother-in-law of the Appellant/Claimant) regarding the said Jhuggi No. B-665. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

42. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/10/29.G/688 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 53 of 2022

Date of Institution: 21.11.2022

Date of Order: 10.08.2023

Present: None for the Appellant/ Claimant Sameer Haldar S/o Dilip Haldar

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-62, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-62 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/36/39.1/951 dated 07.11.2022 to the present Appellant/Claimant.

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Aggrieved by the same, the present Appeal No. 53 of 2022 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-62 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as he has never appeared

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before us. The perusal of the Zimni Orders shows that the Appeal was put up before us for the first time on 08.12.2022 but the Appellant/ Claimant had failed to appear on 08.12.2022 and the matter was fixed for 02.01.2023 for procuring his presence. But the Appellant/ Claimant had failed to appear on 02.01.2023 and accordingly the Notice for Appearance was issued for 24.02.2023. But the Appellant/ Claimant did not appear on 24.02.2023 and accordingly fresh notice for 27.03.2023 was issued to procure the appearance of the present Appellant/ Claimant. But the Appellant/ Claimant did not appear on 27.03.2023 and accordingly fresh notice for 26.04.2023 was issued to procure the appearance of the present Appellant/ Claimant. But he had failed to appear on 26.04.2023. Fresh notice was issued on 26.04.2023 to procure his presence for 18.05.2023. But the file was taken up on 08.05.2023 and the appeal was fixed for 04.08.2023 to give priority to other cases and fresh notice was issued to procure his presence for 04.07.2023 for conducting further proceedings. The Appellant/ Claimant did not appear on 04.07.2023 and thereafter on 20.07.2023 & 21.07.2023. On 21.07.2023 fresh notice was issued to procure his presence for 04.08.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 04.08.2023 in spite of due service.

7. On 04.08.2023 fresh notice was issued for 07.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on him mobile number.

8. However, still none appeared on 07.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 08.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on him mobile number.

9. However, still none appeared on 08.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 09.08.2023 with

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the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on him mobile number.

10. However, still none appeared on 09.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 10.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on him mobile number.

11. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 10.08.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 53 of 2022 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether she is entitled for alternate allotment as per policy guidelines issued by DDA.

12. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

13. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & Ration Card etc. as on 01.01.2015 and 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. The documents available on file 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.

14. In view of the matter the present we have no hesitation in holding that 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. 385/36/39.1/951 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No.53 of 2022 instituted on 21.11.2022 is dismissed being devoid of any merit.

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

(Ranbir Singh) 9/8/2023	**(Satish Ahlawat)** 10/8/2023	**(Rachna Tiwary)** 10/8/2023
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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 550 of 2023

Date of Institution: 06.12.2022

Date of Order: 10.08.2023

Present: Appellant/Claimant Inderkala W/o Sekhar D/o Kedar Nath

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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. B-692, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-692 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No.

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385/10/53.G/702 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 550 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 04.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-G, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-692 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on 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 as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant, Inderkala, has been recorded before us on 04.08.2023 wherein he has stated that her parents, Kedar Nath & Manbhavta Devi, are having four sons; Arvind, Sunil, Anil, Virender and one daughter Inderkala. All the children are married. Virender is married with Mamta and having no child. Anil is married with Priyanka and having four children. Sunil is married with Sangeeta and having one daughter. Arvind is married with Madhu and having four children. Inderkala (Appellant/Claimant) is married with Sekhar and having two children; Utsav & Rashi.

9. The Appellant/Claimant has stated that her parents, Kedar Nath & Manbhavta Devi, are having a double storey Jhuggi bearing No. B-692 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that her brother Arvind along with his wife Madhu and children is living separately in the Jhuggi No. B-686 and DDA has made allotment in favour of her brother Arvind.

11. The Appellant/Claimant has stated that her parents, Kedar Nath & Manbhavta Devi, along with family of Sunil, Anil & Virender are living on the ground floor of the Jhuggi No. B-692 and regarding that DDA has made allotment in favour of her father Kedar Nath. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that she along with her husband Sekhar and both the children; Utsav & Rashi, is living on the first floor of the Jhuggi No. B-692. The Appellant/Claimant has claimed allotment from DDA against the first floor of the said Jhuggi No. B-692 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 550 of 2023 before the Appellate Authority for redressal. 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.

13. DDA has furnished the survey records along with twelve video clip of the Jhuggi No. B-692. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 04.08.2023 wherein the Appellant/Claimant has stated that the five video clips pertain to the ground floor of the Jhuggi No. B-692 in which the her

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father Kedar Nath is seen and further, his room & kitchen are also seen and further, a pucca staircase going from the ground floor to the first floor is seen. The next seven video clips pertain to the first floor of the Jhuggi No. B-692 in which the Appellant/Claimant Inderkala is seen and further, her room and kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. B-692 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by her parents, Kedar Nath & Manbhavta Devi, whereas the first floor is used for residential purposes by Inderkala (Appellant/ Claimant of Appeal No. 550 of 2023).

14. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-692 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

15. 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 first floor 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-G, in support of her claim and prayed that DDA be directed to make allotment in her favour.

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

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Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because 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. 385/10/53.G/702 dated 07.11.2022.

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.

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

- Passport.
- Ration Card with photograph.

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

19. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

20. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment

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against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

22. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

24. The Appellant/Claimant has tendered her Voter ID Card No. ARE 1464919 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2012 (Annexure-F) and Voter List of the year 2019 (Annexure-G).

25. It is pointed out that the Voter ID Card No. ARE 1464979 (Annexure-A) has been issued on 07.01.2011, much prior to the cut off date of 01.01.2015. Further, the name of the Appellant/Claimant appears at Sl. No. 1155 in the Voter List of the year 2012 (Annexure-F) and at Sl. No. 1256 in the Voter List of the year 2019 (Annexure-G). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a

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Voter ID Card on the cut- off date of 01.01.2015 and her name also appears in the Voter List of the year 2012 & of the year of survey.

26. The Appellant/Claimant has admitted that she 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. B-692 regarding which she 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 Jhuggi No. B-692.Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

27. The Appellant/Claimant has tendered Passbook of SBI (Annexure-D) & Electricity Bill (Annexure-E).

28. It is pointed out that the Passbook of SBI shows that the account has been opened by the Appellant/Claimant with SBI but the date of opening the account is not mentioned. The Electricity Bill (Annexure-E) shows that the connection has been taken by her father Kedarnath on 16.06.2008 on the address of the ground floor of the Jhuggi No. B-692 thereby showing that the Appellant/Claimant was not having an electricity connection on the address of first floor of the Jhuggi No. B-692 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 separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

29. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-G, 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 separate Ration

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Card on the cut off date of 01.01.2015 inspite of the fact that she is claiming allotment against the upper floor.

30. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-692 regarding which she is claiming allotment from DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

31. 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. 385/10/53.G/702 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

32. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 605 of 2023

Date of Institution: 23.11.2022

Date of Order: 10.08.2023

Present: Appellant/Claimant Meena W/o Rishi Pal D/o Jyoti Prasad

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-04, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-04 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/6/82.1/1229 dated

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07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 605 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 03.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-04 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. The statement of the Appellant/Claimant, Meena, has been recorded before us on 03.08.2023 wherein she has stated that her in-laws, Hargobind & Laxmi, are having one son Rishipal & five daughters; Babita, Kavita, Poonam, Puja & Jyoti. All except Pooja & Jyoti are married. Babita is married with Laxman and she is living in her matrimonial home in Faridabad, Haryana. Kavita is married with Vinod and she is living in her matrimonial home in Ashram, Delhi. Poonam is married with Raja and she is living in Ghaziabad, Uttar Pradesh. Rishipal is married with Meena (Appellant/Claimant) and having four children; Shivani, Shivam, Jatin & Gautam.

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8. The Appellant/Claimant has stated that her family is having a double storey Jhuggi bearing No. A-04 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

9. The Appellant/Claimant has stated that her in-laws, Hargobind & Laxmi, along with their unmarried daughters; Puja & Jyoti, are living on the ground floor of the Jhuggi No. A-04 and regarding that DDA has made allotment in favour of her mother-in-law, Laxmi. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that she along with her husband Rishipal & the four children, Shivani, Shivam, Jatin & Gautam, is living on the first floor of the Jhuggi No. A-04. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. A-04. But her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 605 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-M, in support of her claim and prayed that DDA be directed to make allotment in her favour.

11. DDA has furnished the survey records along with four video clips of Jhuggi No. A-04. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 03.08.2023 wherein the Appellant/Claimant has stated that two video clips pertain to the ground floor of the Jhuggi No. A-04 in which her mother-in-law, Laxmi, is seen and further, her room & kitchen are also seen. The next two video clips pertain to the first floor of the Jhuggi No. A-04 in which the Appellant/Claimant Meena is seen and further, her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. A-04 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by her in-laws, Hargobind & Laxmi, whereas the first floor is used for residential purposes by Meena (Appellant/ Claimant of Appeal No. 605 of 2023).

12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-04 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

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13. 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 first floor 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-M, in support of her claim and prayed that DDA be directed to make allotment in her favour.

15. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/6/82.1/1229 dated 07.11.2022.

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.

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

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

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

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17. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18. As already pointed out above, condition contained in Part–B Para 10 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."

19. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

20. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off 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.

21. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

22. The Appellant/Claimant has tendered her Voter ID Card No. CXY 1068543 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2012 (Annexure-K), Voter List of the year 2015 (Annexure-L) and Voter List of the year 2019 (Annexure-M).

23. It is pointed out that the Voter ID Card No. CXY 1068543 (Annexure-A) has been issued on 05.03.2002, much prior to the cut off date of 01.01.2015. Further, the name of the Appellant/Claimant appears at Sl. No. 92 in the Voter List of the year 2012 (Annexure-K), at Sl. No. 155 in the Voter List of the year 2015 (Annexure-L) and at Sl. No. 200 in the Voter List of the year 2019 (Annexure-M). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and her name also appears in the Voter List of the year 2012, 2015 & of the year of survey.

24. The Appellant/Claimant has admitted that she 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. a-04 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered the Ration Card (Annexure-J), which has been issued in favour of her mother-in-law, Laxmi, and the name of the Appellant/Claimant has been mentioned but the date of issuance is not mentioned. 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 Jhuggi No. A-04 regarding which she is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill

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the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

25. The Appellant/Claimant has tendered the Voter ID Card No. DL/03/035/240242 (Annexure-D), Aadhar Card (Annexure-E), PAN Card (Annexure-F) & Passport (Annexure-G) of her husband Rishipal, Passbook of Allahabad Band (Annexure-H) and Electricity Bill (Annexure-I).

26. It is pointed out that the Voter ID Card No. DL/03/035/240242 (Annexure-D) of her husband Rishipal has been issued on 28.01.1995. The Passbook of Allahabad Bank (Annexure-H) shows that the account has been opened by the Appellant/Claimant on 22.08.2013. The Electricity Bill (Annexure-I) shows that her father-in-law, Hargobind, had taken the electricity connection on 26.06.2008 on the address of ground floor of the Jhuggi No. A-04 thereby showing that the Appellant/Claimant was not having an electricity connection on the first floor of the Jhuggi No. A-04 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 separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-M, 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 separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she is claiming allotment against the upper floor.

28. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-04 regarding which she is claiming allotment from

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DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

29. 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. 385/6/82.1/1229 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

30. 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.

10/8/2023

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

10/8/2023

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

10/8/2023

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 627 of 2023

Date of Institution: 23.12.2022

Date of Order: 10.08.2023

Present: Appellant/Claimant Vikesh Kumar S/o Ramakant

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-665, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-665 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No.

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385/10/31.1/691 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 627 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 07.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-665 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant, Vikesh Kumar, has been recorded before us on 07.08.2023 wherein he has stated that his parents, Ramakant & Poonam, are having three sons; Vikesh, Vikram & Vimal and two daughters, Mini & Suman. All the children except Suman are married. Mini is married with Binni and she is living in her matrimonial home in Gautam Nagar, Delhi. Vimal is married with Soni and having one daughter Pihu. Vikram is married with Sarita and having one daughter Twinkle. Vikesh (Appellant/Claimant) is married with Poonam and having one daughter Anika.

9. The Appellant/Claimant has stated that his parents, Ramakant & Poonam, are having a triple storey Jhuggi No. B-665 and it comprises of one room on each floor and a pucca staircase has been constructed inside the room on the ground floor for going to the upper floor.

10. The Appellant/Claimant has stated that the first and the second floors are not having independent access from the gali but a pucca staircase has been constructed inside the room on the ground floor for going to the upper floor. This shows that the first and the second floors of the Jhuggi No. B-665 are not separate & independent dwelling units because they are not having an independent access from the gali. However, in order to reach the first and the second floors, one has to use the pucca staircase, which has been constructed inside the room on the ground floor. Therefore, both the first and the second floors of Jhuggi No. B-665 are not separate & independent dwelling units but both are part & parcel of one dwelling unit of his parents, Ramakant & Poonam, bearing Jhuggi No. B-665 for all purposes.

11. Thus we have no hesitation in holding that the statement of the Appellant/Claimant accordingly shows that the first and the second floors of the Jhuggi No. B-665 are not having any independent access from the gali but in order to reach the upper floors, one has to use the pucca staircase, which has been constructed inside the room on the ground floor. Therefore, the ground, first & the second floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. B-665 of his parents, Ramakant & Poonam, for all purposes.

12. The Appellant/Claimant has stated that his parents, Ramakant & Poonam, along with their unmarried daughter Suman as well as the family of Vimal, are living on the ground floor of the Jhuggi No. B-665 and regarding that DDA has made allotment in favour of his mother Poonam. These facts are not disputed by DDA.

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13. The Appellant/Claimant has stated that Vikram along with his wife Sarita and daughter Twinkle is living on the second floor of the Jhuggi No. B-665 and against that Sarita has sought allotment from DDA but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, Sarita has filed the Appeal No. 41 of 2022 before the Appellate Authority for redressal. These facts are not disputed by DDA.

14. The Appellant/Claimant has stated that he along with his wife Poonam and daughter Anika is living on the first floor of the Jhuggi No. B-665. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. B-665, however, his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 627 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-K, and prayed that DDA be directed to make allotment in favour of his claim.

15. It is pointed out that both the appeals bearing Appeal No. 41 of 2022 and Appeal No. 627 of 2023 shall be placed separately on their respective claim.

16. DDA has furnished the survey records along with sixteen video clip of the Jhuggi No. B-665. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 07.08.2023 wherein the Appellant/Claimant has stated that seven video clips pertain to the ground floor of the Jhuggi No. B-665 in which his mother Poonam is seen and her room & kitchen are also seen and further, a pucca staircase constructed inside her room on the ground floor and used for going to the upper floor is also seen. The next five video clips pertain to the first floor of the said Jhuggi No. B-665 in which Poonam, who is wife of the Vikesh (Appellant/Claimant of Appeal No. 627 of 2023) is seen and further, the room & kitchen are also seen and further, a pucca staircase constructed inside the room on the ground floor and used for going to the first floor is also seen. The next four video clips pertain to the second floor in which a pucca staircase constructed on the first floor and used for going to the second floor is seen and Sarita (Appellant/Claimant of Appeal No. 41 of 2022) is seen and further, her room & kitchen are also seen.

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17. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a triple storey Jhuggi No. B-665 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by his parents, Ramakant & Poonam, whereas the first floor is used for residential purposes by Vikesh (Appellant/ Claimant of Appeal No. 627 of 2023) and the second floor is used for residential purposes by Sarita (Appellant/ Claimant of Appeal No. 627 of 2023).

18. The admission of the Appellant/Claimant is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the time of survey and it shows that the first and the second floors of the Jhuggis No. B-665 are not having any independent access from the gali but in order to reach the upper floors one has to use the pucca staircase, which has been constructed inside the room on the ground floor. Therefore, the first and the second floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. B-665 of his parents, Ramakant & Poonam, for all purposes.

19. Thereby keeping in view that the first and the second floors of Jhuggi No. B-665 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. B-665 of his parents, Ramakant & Poonam, for all purposes and DDA has already made allotment in favour of his mother, Poonam, regarding the said Jhuggi No. B-665. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of Poonam W/o Ramakant, therefore, Vikesh Kumar (Appellant/Claimant of Appeal No. 627 of 2023) is not entitled to seek second allotment from DDA against the first floor and similarly Sarita (Appellant/Claimant of Appeal No. 41 of 2022) also cannot seek allotment from DDA against the second floor of that very Jhuggi No. B-665. But it seems that the Appellant/Claimant in collusion with other family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the Appellant/ Claimant cannot claim allotment against the first floor because it is part & parcel of single dwelling unit bearing Jhuggi No. B-665 of his mother Poonam W/o Ramakant. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

20. Now we shall first appraise the material placed on file to determine the eligibility on other parameters as to whether the Appellant/ Claimant was having all the requisite

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documents, including valid Voter ID Card & 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 as per the policy guidelines issued by DDA.

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

22. 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 separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/10/31.1/691 dated 07.11.2022.

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

"Part-B

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

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.

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

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

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

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- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

24. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

25. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

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27. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

28. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

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

30. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1163021 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2012 (Annexure-J) and Voter List of the year 2019 (Annexure-K).

31. It is pointed out that the Voter ID Card No. ARE 1163021 (Annexure-A) has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 1070 in the Voter List of the year 2012 (Annexure-J) and at Sl. No. 1184 in the Voter List of the year 2019 (Annexure-K). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appear in the Voter List of the year's 2012 & of the year of survey.

32. 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. B-

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665 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. B-665 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

33. The Appellant/Claimant has tendered his Driving Licence (Annexure-D) as well as Voter ID Card No. ARE 1865807 (Annexure-E), Aadhar Card (Annexure-F) & PAN Card (Annexure-G) of his wife Poonam, Electricity Bill (Annexure-H) and Aadhar Card (Annexure-I) of his daughter Anika.

34. It is pointed out that the Driving Licence (Annexure-D) of the Appellant/Claimant has been issued on 30.06.2007.The Voter ID Card No. ARE 1865807 (Annexure-E) of his wife Poonam has been issued on 25.03.2014. The Electricity Bill (Annexure-E) shows that the connection has been taken by his father Ramakant on 31.05.2008 on the address of the ground floor of the Jhuggi No. B-665 thereby showing that the Appellant/Claimant was not having separate electricity connection on the first floor of the Jhuggi No. B-665 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

35. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the first floor of the Jhuggi No. B-665 regarding which he is claiming allotment from DDA and further all the three floors of Jhuggi No. B-665 has also been found to be one dwelling unit bearing Jhuggi No. B-665 of Poonam W/o Ramakant for all purposes and DDA has already made allotment in favour of Poonam (mother of the Appellant/Claimant) regarding the said Jhuggi No. B-665. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. The documents, Annexure-A to

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Annexure-K, 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.

36. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the first floor of the Jhuggi No. B-665 regarding which he is claiming allotment from DDA and further all the three floors of Jhuggi No. C-437 has also been found to be part & parcel of one dwelling unit bearing Jhuggi No. B-665 of Poonam W/o Ramakant for all purposes and DDA has already made allotment in favour of Poonam (mother of the Appellant/Claimant) regarding the said Jhuggi No. B-665 and accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

37. 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. 385/10/31.1/691 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

38. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 694 of 2023

Date of Institution: 30.01.2023

Date of Order: 10.08.2023

Present: Appellant/Claimant Mithul Haldar S/o Rabindra Nath Haldar

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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. B-272, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-272 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/67/111.1.1/1546 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by

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the same, the present Appeal No. 694 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 08.08.2023 and has tendered documents, Annexure-A to Annexure-E, in support of his claim. However, the Appellant/Claimant had refused to sign his statement and accordingly remarks was given that adverse remarks, if any, shall be drawn at appropriate stage. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-272 was found to exist on the upper floor but he had failed to submit required documents, on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card not verified //No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same he has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DDA

7. The statement of the Appellant/Claimant, Mithun Haldar, has been recorded before us on 08.08.2023 wherein he has stated that his parents, Rabinder Nath & Sushila, are having

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one son Mithun (Appellant/Claimant) and two daughters; Bindia & Sandhya. Both the daughters are unmarried. Mithun (Appellant/Claimant) is married with Sangeeta and having two children, Sumit & Babli.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. B-272 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

9. The Appellant/Claimant has stated that his parents, Rabinder Nath & Sushila, along with their unmarried daughters, Bindia & Sandhya, are living on the ground floor of the Jhuggi No. B-272 and regarding that DDA has made allotment in favour of his mother Sushila. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that he along with his wife Sangeeta and both the children, Sumit & Babli, is living on the first floor of the Jhuggi No. B-272. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi no. B-272 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 694 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-E, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished the survey records along with four video clips of the Jhuggi No. B-272. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 08.08.2023 wherein the Appellant/Claimant has stated that all the four video clips pertain to the ground floor of the Jhuggi No. B-272 in which her mother Sushila is seen and further, her room & kitchen is seen. However, the video clip prepared on the first floor is not available but the photographs taken by the survey team of DDA are placed on file and the same corroborates the statement of the Appellant/Claimant that the Jhuggi No. B-272 is a double storey structure and he was living on the first floor of the Jhuggi No. B-272. Thus the statement of the Appellant/Claimant as well as the survey records/video clips/ Photographs has duly proved that a double storey Jhuggi No.C-272 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by her parents, Rabinder Nath & Sushila and

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their unmarried daughters, Bindiya & Sandhya, whereas the first floor is used for residential purposes by Mithun Haldar (Appellant/ Claimant of Appeal No. 694 of 2023).

12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-272 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

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

15. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but 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 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. 385/67/111.1.1/1546 dated 07.11.2022.

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

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

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

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

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- 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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

17. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18. As already pointed out above, condition contained in Part–B Para 10 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."

19. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

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20. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

21. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

22. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1435934 (Annexure-A), Aadhar Card (Annexure-B) and Voter List of the year 2012 (Annexure-E).

23. It is pointed out that the Voter ID Card No. ARE 1435934 (Annexure-A) has been issued on 22.09.2021, much after the cut off date of 01.01.2015. Further, the name of the Appellant/Claimant appears at Sl. No. 1090 in the Voter List of the year 2012 (Annexure-E) and the number of his Voter ID Card has been mentioned to be bearing number ARE 1435934. It shows that the original Voter ID Card No. ARE 1435934 must have been issued much earlier to 22.09.2021 as it has been reflected in the Voter list of the year 2012 (Annexure-E) but the original is not placed on file to ascertain the date of its issuance. The duplicate Voter ID Card (Annexure-A) has been issued on 22.09.2021 but the original was in existence even in the year 2012 and that is why it has been reflected in the Voter List of the year 2012 (Annexure-E). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012. The Appellant/ Claimant has not tendered Voter Lists from 2013 to 2019 to show that he had used his Voter ID Card No.

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ARE 1435934 to cast his vote in the years 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 and his name has been reflected in the Voter List of the year 2012 (Annexure-E) but his name does not appear in the Voter List of the year's 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA

24. 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. B-272 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 the Jhuggi No. B-272.Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

25. The Appellant/Claimant has tendered his Driving Licence (Annexure-C) & Aadhar Card (Annexure-D) of his wife Sangeeta Haldar.

26. It is pointed out that the Driving Licence (Annexure-C) of the Appellant/Claimant has been issued on 04.10.2021, much after the cut off date of 01.01.2015. It is pointed out that the above-mentioned document is of no help to the Appellant/Claimant because these document does 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 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in the Voter List of the year's 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey. The documents, Annexure-A to Annexure-E, are of no help to the

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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 separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-272 regarding which he is claiming allotment from DDA and further his name also does not appear in the Voter List of the year's 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

28. 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. 385/67/111.1.1/1546 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

10/8/2023

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

10/8/2023

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 57 of 2022

Date of Institution: 21.11.2022

Date of Order: 11.08.2023

Present: Appellant/Claimant Sarita W/o Hari Kishor

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-376, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-376 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No.

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385/58/5.1/1114 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 57 of 2022 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 04.08.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-376 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on 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 as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Sarita, has been recorded before us on 04.08.2023 wherein she has stated that her in-laws, Kirpal & Beni, are having four sons, Naresh, Ravi, Manoj & Hari Kishor. All the children except Manoj are married.

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Naresh is married with Laxmi. Ravi is married with Suman and having one daughter, Kritika. Hari Kishor is married with Sarita (Appellant/Claimant) and having two children, Karn & Neetu.

8. The Appellant/Claimant has stated that her family is having a triple storey Jhuggi No. A-376 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floors.

9. The Appellant/Claimant has stated that her in-laws, Kirpal & Beni, along with The family of Naresh Kumar and their unmarried son Manoj are living on the ground floor of the Jhuggi No. A-376 and regarding that DDA has made allotment in favour of her mother-in-law, Beni. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that Naresh has also sought allotment from DDA against the ground floor of the Jhuggi No. A-376 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 188 of 2022 before the Appellate Authority for redressal. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that Ravi along with his wife Suman & daughter is living on the second floor of the Jhuggi No. A-376 and regarding that Ravi has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 189 of 2022 before the Appellate Authority but that appeal has been rejected by the Appellate Authority on 06.06.2023. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that she along with her husband Hari Kishor and children, Karn & Neetu, is living on the first floor of the Jhuggi No. A-376. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-376 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 57 of 2022 before the Appellate Authority. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-L, and prayed that DDA be directed to make allotment in her favour.

13. It is pointed out that both the appeals bearing Appeal No. 57 of 2022 and Appeal No. 188 of 2022 shall be decided separately on their individual merits.

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14. DDA has furnished the survey records along with five video clips of Jhuggi No. A-376. The video clips were played before the Appellant/Claimant when his statement was recorded on 04.08.2023 wherein the Appellant/Claimant has stated that two video clip pertains to the ground floor of the Jhuggi No. A-376 in which his mother, Beni is seen and further, her room & kitchen are also seen. The next two video clips pertain to the first floor of Jhuggi No. A-376 in which Sarita W/o Hari Kishore (Appellant/Claimant of Appeal No. 57 of 2023) and her room & kitchen are also seen and further Naresh Kumar (Appellant/Claimant Appeal No. 188 of 2023) is also seen getting the survey conducted in the kitchen of Sarita on the first floor of Jhuggi No. A-376 and he is holding a slate on which "Naresh A-376 F 2" is written (F-2 - showing that he is getting survey on the second floor). The fifth other video clip Ravi (Appellant/Claimant Appeal No. 189 of 2023) along with his wife Suman is seen on the second floor and his room & kitchen are also seen.

15. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a triple storey Jhuggi No. A-376 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and her-in-laws, Kirpal & Beni, was using the ground floor of the said Jhuggi No. A-376 for residential purposes, Sarita W/o Hari Kishore (Appellant/Claimant of Appeal No. 57 of 2023) was using the first floor of the said Jhuggi No. A-376 for residential purposes, Ravi (Appellant/Claimant Appeal No. 189 of 2023) using the second floor of the said Jhuggi No. A-376 for residential purposes. Whereas Naresh (Appellant/Claimant Appeal No. 188 of 2023) is found to be living jointly with his parents, Kirpal & Beni, on the ground floor of the said Jhuggi No. A-376 but he has filed wrong & false claim to grab allotment from DDA by concocting wrong & false story and out of lust & greed he had got the survey conducted in the kitchen of Sarita on the first floor of the said Jhuggi No. A-376 and in the video clip prepared by the survey team he is also seen to be holding a slate on which "Naresh A-376 F 2" is written (F-2 - showing that he is getting survey on the second floor).

16. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. A-376 in Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

17. 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

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01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

18. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-L, 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 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 separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/58/5.1/1114 dated 07.11.2022.

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.

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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.

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

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

21. As per Part–B Para 6 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. This

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list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

22. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

24. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

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25. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

26. The appellant/Claimant has tendered her Voter ID Card No. ARE 11310010 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-K) and Voter List of the year 2019 (Annexure-L).

27. It is pointed out that the Voter ID Card No. (Annexure-A), has been issued on 27.10.2008, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 781 in the Voter List of the year 2014 (Annexure-K) and at Sl. No. 998 in the Vote List of the year 2019 (Annexure-L). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 & also in the year of survey.

28. The Appellant/ Claimant has admitted that he is not having a separate Ration card on the address of the first floor of the said Jhuggi No. A-376 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered Ration Card (Annexure-J), which has been issued in favour of her mother-in-law, Beni and the name of the Appellant/Claimant as well as her husband is mentioned but the date of issuance is not mentioned. 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. A-376 regarding which she 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

29. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1131002 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of her husband Hari Kishor as well as the Passbook of PNB (Annexure-G), Gas connection (Annexure-H) and the Electricity Bill (Annexure-I).

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30. It is pointed out that the Voter ID Card No. ARE 1131002 (Annexure-D) of her husband Hari Kishor has been issued on 27.10.2008. The Passbook of PNB (Annexure-G) shows that the Appellant/Claimant had opened the account on 03.03.2016. The Gas connection (Annexure-H) shows that the connection has been taken by her husband Hari Kishor on 02.01.2014. The Electricity Bill (Annexure-I) shows that the connection has been taken by her father-in-law, Kripal, on 10.05.2008, thereby, showing that the Appellant/Claimant was not having electricity connection on the first floor of Jhuggi No. A-376 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 his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA

31. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-L, 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 separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she is claiming allotment against the upper floor.

32. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-376 regarding which she is claiming allotment from DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

33. 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

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bearing No. 385/58/5.1/1114 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

(Ranbir Singh) 11/8/2023	**(Satish Ahlawat)** 11/8/2023	**(Rachna Tiwary)** 11/8/2023
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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 188 of 2022

Date of Institution: 23.11.2022

Date of Order: 11.08.2023

Present: Appellant/Claimant Naresh Kumar S/o Kirpal Beni

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-376, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-376 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No.

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385/58/5.1/1115 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 188 of 2022 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 04.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-376 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Naresh Kumar, has been recorded before us on 04.08.2023 wherein he has stated that his parents, Kirpal & Beni, are having four sons, Naresh, Ravi, Manoj & Hari Kishor. All the children except Manoj are married.

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Ravi is married with Suman and having one daughter, Kritika. Hari Kishor is married with Sarita and having two children, Karn & Neetu. Naresh (Appellant/Claimant) is married with Laxmi.

8. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi No. A-376 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floors.

9. The Appellant/Claimant has stated that he along with his family as well as Manoj are living with their parents, Kirpal & Beni, on the ground floor of the Jhuggi No. A-376 and regarding that DDA has made allotment in favour of his mother, Beni. These facts are not disputed by DDA.

10. At the very outset it is pointed out that the admission of the Appellant/Claimant is clincher piece of evidence and it shows that he has specifically admitted that he along with his family is living jointly with his parents, Kirpal & Beni, on the ground floor of the Jhuggi No. A-376 and accordingly he is not eligible to claim allotment from DDA as he cannot wriggle out of his admission.

11. The Appellant/Claimant has stated that Hari Kishor along with his wife Sarita & children is living on the first floor of the Jhuggi No. A-376 and regarding that Sarita has sought allotment from DDA but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 57 of 2022 before the Appellate Authority for redressal. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that Ravi along with his wife Suman & daughter is living on the second floor of the Jhuggi No. A-376 and regarding that Ravi has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 189 of 2022 before the Appellate Authority but that appeal has been rejected by the Appellate Authority on 06.06.2023. These facts are not disputed by DDA.

13. The Appellant/Claimant has stated that he along with his wife Laxmi is living jointly on the ground floor of the Jhuggi No. A-376 with his parents, Kirpal & Beni. But the Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-376 and his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 188 of 2022 before the Appellate Authority. The Appellant/Claimant has tendered documents,

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Annexure-A to Annexure-L, and prayed that DDA be directed to make allotment in his favour.

14. It is pointed out that both the appeals bearing Appeal No. 57 of 2022 and Appeal No. 188 of 2022 shall be decided separately on their individual merits.

15. DDA has furnished the survey records along with five video clips of Jhuggi No. A-376. The video clips were played before the Appellant/Claimant when his statement was recorded on 04.08.2023 wherein the Appellant/Claimant has stated that two video clip pertains to the ground floor of the Jhuggi No. A-376 in which his mother, Beni is seen and further, her room & kitchen are also seen. The next two video clips pertain to the first floor of Jhuggi No. A-376 in which Sarita W/o Hari Kishore (Appellant/Claimant of Appeal No. 57 of 2023) and her room & kitchen are also seen and further Naresh Kumar (Appellant/Claimant Appeal No. 188 of 2023) is also seen getting the survey conducted in the kitchen of Sarita on the first floor of Jhuggi No. A-376 and he is holding a slate on which "Naresh A-376 F 2" is written (F-2 - showing that he is getting survey on the second floor). The fifth other video clip Ravi (Appellant/Claimant Appeal No. 189 of 2023) along with his wife Suman is seen on the second floor and his room & kitchen are also seen.

16. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a triple storey Jhuggi No. A-376 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and his parents, Kirpal & Beni, was using the ground floor of the said Jhuggi No. A-376 for residential purposes, Sarita W/o Hari Kishore (Appellant/Claimant of Appeal No. 57 of 2023) was using the first floor of the said Jhuggi No. A-376 for residential purposes, Ravi (Appellant/Claimant Appeal No. 189 of 2023) using the second floor of the said Jhuggi No. A-376 for residential purposes. Whereas Naresh (Appellant/Claimant Appeal No. 188 of 2023) is found to be living jointly with his parents, Kirpal & Beni, on the ground floor of the said Jhuggi No. A-376 but he has filed wrong & false claim to grab allotment from DDA by concocting wrong & false story and out of lust & greed he had got the survey conducted in the kitchen of Sarita on the first floor of the said Jhuggi No. A-376 and in the video clip prepared by the survey team he is also seen to be holding a slate on which "Naresh A-376 F 2" is written. This creates dent.

17. The admission of the Appellant/Claimant is clincher piece of evidence and it shows that he along with his family was living jointly with his parents, Kirpal & Beni, on the ground floor of the said Jhuggi No. A-376 and regarding that DDA has made allotment

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in favour of his mother, Beni. The material placed on file also shows that Naresh (Appellant/Claimant Appeal No. 188 of 2023) is found to be living jointly with his parents, Kirpal & Beni, on the ground floor of the said Jhuggi No. A-376 but he has filed wrong & false claim to grab allotment from DDA by concocting false & wrong story and out of lust & greed he had got the survey conducted in the kitchen of Sarita and in the video clip prepared by the survey team he is also seen to be holding a slate on which "Naresh A-376 F 2" is written. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

18. Now we shall first appraise the material placed on file to determine the eligibility on other parameters 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 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 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-L, in support of his claim and prayed that DDA be directed to make allotment in his favour.

20. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card 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 separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/58/5.1/1115 dated 07.11.2022.

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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.
>
> **<u>As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:</u>**
>
> - Passport.
> - Ration Card with photograph.
> - Electricity Bill
> - Driving License.
> - Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
> - Passbook issued by public sector Bank/Post Office with photograph.
> - SC/ST/OBC certificates issued by Competent Authority with photograph.

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

22. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

23. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having

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any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

25. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

26. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

27. The Appellant/Claimant has tendered his Voter ID Card No. ARE 2059565 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2015 (Annexure-K) and Voter List of the year 2019 (Annexure-L).

28. It is pointed out that the Voter ID Card No. ARE 2059565 (Annexure-A) has been issued on 13.07.2015, much after the cutoff date 01.01.2015 and accordingly his name appearing in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) does not arise. There is no doubt that the name of the Appellant/Claimant appears at Sl. No. 77 in the Voter List of the year 2015 (Annexure-K) and at Sl. No. 168 in the Voter List of the year 2019 (Annexure-L) on the basis of the Voter ID Card No. ARE 2059565 (Annexure-A), which has been issued on 13.07.2015. Therefore he was not having Voter ID Card on the cutoff date of 01.01.2015 and accordingly his name

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cannot appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and his name also appears in the voter list of the year's 2015 & also in the year of survey but his name does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

29. The Appellant/ Claimant has admitted that he is not having a separate Ration card on the address of the first floor of the said Jhuggi No. A-376 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the Ration Card (Annexure-J), which has been issued in favour of his mother Beni and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. 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. A-376 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

30. The Appellant/Claimant has tendered his Driving License (Annexure-D) as well as the Voter ID Card No. ARE 2275212 (Annexure-E), Aadhar Card (Annexure-F) & PAN Card (Annexure-G) of his wife Laxmi, the Electricity Bill (Annexure-H) and the Passbook of PNB (Annexure-I).

31. It is pointed out that the Voter ID Card No. ARE 2275212 (Annexure-E) of her wife Laxmi has been issued on 08.07.2019, much after the cutoff date 01.01.2015. This shows that neither the Appellant/Claimant nor his wife Laxmi was having a valid Voter ID Cards on the cutoff date 01.01.2015.

32. It is also pointed out that the Driving License (Annexure-D) of the Appellant/Claimant has been issued on 21.09.2016, much after the cutoff date 01.01.2015. The Electricity Bill (Annexure-H) has been issued in favour of his father Kirpal on 10.05.2008 on the address of the ground floor of the Jhuggi No. A-376, thereby, showing that the Appellant/Claimant was not having electricity connection on the first floor of the Jhuggi No. A-376 regarding which he is claiming allotment from DDA. The Passbook of PNB (Annexure-I) shows that the Appellant/Claimant had opened the account on 06.02.2022, much after the cutoff date 01.01.2015. It is pointed out that the above-

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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 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

33. The material placed on file shows that the Appellant/ Claimant Naresh Kumar is found to be living jointly with his parents, Kirpal & Beni, on the ground floor of the said Jhuggi No. A-376 but he has filed wrong & false claim to grab allotment from DDA against the first floor of Jhuggi No. A-376 by concocting false & wrong story and out of lust & greed he had got the survey conducted in the kitchen of his sister-in-law, Sarita W/o Hari Kishor on the first floor of Jhuggi No. A-376 and in the video clip prepared by the survey team he is also seen to be holding a slate on which "Naresh A-376 F 2" is written (F-2 - showing that he is getting survey on the second floor) and further he was not having a separate Ration Card on the cut off date of 01.01.2015. The documents, Annexure-A to Annexure-L, 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.

34. Accordingly, we have no hesitation in holding that the Appellant/ Claimant, Naresh Kumar, is found to be living jointly with his parents, Kirpal & Beni, on the ground floor of the said Jhuggi No. A-376 but he has filed wrong & false claim to grab allotment from DDA against the first floor of Jhuggi No. A-376 by concocting false & wrong story and out of lust & greed he had also got the survey conducted in the kitchen of Sarita on the first floor of Jhuggi No. A-376 and in the video clip prepared by the survey team he is also seen to be holding a slate on which "Naresh A-376 F 2" is written (F-2 - showing that he is getting survey on the second floor) and further he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

35. 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

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rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/58/5.1/1115 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

(Ranbir Singh) 11/8/2023	**(Satish Ahlawat)** 11/8/2023	**(Rachna Tiwary)** 11/8/2023
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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 330 of 2023

Date of Institution: 28.11.2022

Date of Order: 11.08.2023

Present: Appellant/Claimant Sanjay Kumar S/o Bhagwat Mehto

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-2, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-2 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/6/75.1/1225 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 330 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 08.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-2 was found to exist but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 bearing No. A-2 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Sanjay Kumar, has been recorded before us on 08.08.2023 wherein he has stated that his parents, Bhagwat Mahto & Rajkali, are having three sons, Santosh, Jitender & Sanjay and two daughters Neelam & Poonam. All

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the children extept Jitender are married. Poonam is married with Amarjeet and she is living in her matrimonial home in Bihar. Neelam is married with Dinesh and having three children, Mahi, Aditya, & Siya. Santosh is married with Pritam and having one daughter Sonam. Sanjay (Appellant/Claimant) is married with Gita and having one daughter Naina.

9. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi bearing No. A-2 and it comprises of two interconnected rooms on the ground floor, one room each on the first & the second floor and a pucca staircase has been constructed outside for going from the ground floor to the upper floor.

10. It is pointed out at the very outset that there are two interconnected rooms on the ground floor of the Jhuggi No. A-2 and accordingly both the rooms on the ground floor are not separate & independent dwelling unit but both are part & parcel of one dwelling unit of his parents, Bhagwat Mahto & Rajkali, on the ground floor bearing Jhuggi No. A-2 for all purposes.

11. The Appellant/Claimant has stated that his sister Neelam along with her husband Dinesh is living on the second floor of the Jhuggi No. A-2 and regarding that Dinesh has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 331 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that Santosh along with his wife Pritam and daughter Sonam is living on the first floor of the Jhuggi No. A-2 and regarding that Santosh has sought allotment from DDA against the first floor of the Jhuggi No. A-2 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 334 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

13. The Appellant/Claimant has stated that his parents, Bhagwat Mahto & Rajkali are living in one of the interconnected rooms on the ground floor of the Jhuggi No. A-2 and

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regarding that DDA has made allotment in favour of his mother Rajkali. These facts are not disputed by DDA.

14. The Appellant/Claimant has stated that he along with his wife Gita and daughter Naina is living in the second interconnected rooms on the ground floor of the Jhuggi No. A-2. The Appellant/Claimant has sought allotment from DDA against the second interconnected room on the ground floor of the Jhuggi No. A-2 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 330 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-I, in support of his claim and prayed that DDA be directed to make allotment in his favour.

15. It is pointed out that all the three appeals bearing Appeal No. 330 of 2023, Appeal No. 331 of 2023 and Appeal No. 334 of 2023shall we decided separately on their individual merits.

16. DDA has furnished the survey records along with sixteen video clip of the Jhuggi No. A-2. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 08.08.2023 wherein the Appellant/Claimant has stated that ten video clips pertain to the ground floor of the Jhuggi No. A-2 in which in one of the interconnected rooms on the ground floor his parents, Bhagwat Mahto & Rajkali, are seen whereas in the second room interconnected rooms on the ground floor Sanjay (Appellant/Claimant of Appeal No. 330 of 2023) is seen and their respective rooms/kitchens are also seen. The next three video clips pertain to the first floor of the said Jhuggi No. A-2 in which Santosh (Appellant/Claimant of Appeal No. 334 of 2023) is seen and further, his room & kitchen are also seen. The next three video clips pertain to the second floor in which Neelam, who is wife of Dinesh (Appellant/Claimant of Appeal No. 331 of 2023) is seen and further, room & kitchen of Dinesh are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. A-2 being used for residential purposes, was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and his parents, Bhagwat Mahto & Rajkali, as well as Sanjay (Appellant/Claimant of Appeal No. 330 of 2023) are living in two inter-connected rooms on the ground floor whereas the family of his brother Santosh

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(Appellant/Claimant of Appeal No. 334 of 2023) is living on the first floor and further the family of his brother Dinesh (Appellant/Claimant of Appeal No. 331 of 2023) is living on the second floor.

17. The admission of the Appellant/Claimant is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the time of survey and it shows that there are two interconnected rooms on the ground floor of the Jhuggi No. A-2 and accordingly both the rooms on the ground floor are not separate & independent dwelling unit but both are part & parcel of one dwelling unit of his parents, Bhagwat Mahto & Rajkali, on the ground floor bearing Jhuggi No. A-2 for all purposes.

18. Thereby keeping in view that both the interconnected rooms on the ground floor of the Jhuggi No. A-2 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. A-2 of his parents, Bhagwat Mahto & Rajkali, for all purposes and DDA has already made allotment in favour of his mother, Rajkali, regarding the ground floor of the said Jhuggi No. A-2. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of his mother, Rajkali, therefore, Sanjay (Appellant/Claimant of Appeal No. 330 of 2023) is not entitled to seek second allotment from DDA against the ground floor. But it seems that the Appellant/Claimant in collusion with other family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the Appellant/ Claimant cannot claim allotment against the ground floor because it is part & parcel of single dwelling unit bearing Jhuggi No. A-2 of his mother, Rajkali.

19. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

7. Now we shall first appraise the material placed on file to determine the eligibility on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further whether 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 he is entitled to claim

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allotment against the Jhuggi No. A-2, Bhoomiheen Camp as per the policy guidelines issued by DDA.

8. 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 his favour.

9. 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."

10. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and 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.

11. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further 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 Jhuggi No. A-2, Bhoomiheen Camp as per the policy guidelines issued by DDA.

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20. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1656826 (Annexure-A), Aadhar Card (Annexure-B) and Voter List of the year 2014 (Annexure-I).

21. It is pointed out that the Voter ID Care No. ARE 1656826 (Annexure-A) has been issued on 23.07.2014, much prior to the cutoff date of 01.01.2015. Further, the name of the Appellant/Claimant appears at Sl. No. 95 in the Voter List of the year 2014 (Annexure-I). However, the Appellant/Claimant has not tendered the Voter List of the year's 2012, 2013 and 2015 (prior to 01-01-2015) & of the year of survey to show that by using the Voter ID Card No ARE 1656826 (Annexure-A) he had cast his votes during these years. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 but there is no material placed on file to show that his name appears in the Voter List of the year's 2012, 2013 and 2015 (prior to 01-01-2015) & of the year of survey. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

22. The Appellant/Claimant has tendered the Voter ID Card No. ARE 2236776 (Annexure-C) & Aadhar Card (Annexure-D) of his wife Gita as well as his Disability Certificate (Annexure-E), Electricity Bill (Annexure-F), Passbook of Allahabad/ Indian Bank (Annexure-G) and Ration Cards (Annexure-H & Annexure-H/1).

23. It is pointed out that the Voter ID Care No. ARE 2236776 (Annexure-C) of his wife, Gita, has been issued on 16.03.2019, much after the cut off date of 01.01.2015. The Disability Certificate (Annexure-E) of the Appellant/Claimant has been issued on 20.03.2015, much after the cut off date of 01.01.2015. The Electricity Bill (Annexure-F) shows that the electricity connection has been taken by his father Bhagwat Mahto on 08.07.2008 the address of his room on the ground floor of the Jhuggi No. A-02 thereby showing that the Appellant/Claimant was not having an electricity connection in his adjoining interconnected room of the Jhuggi No. A-2. The Appellant/Claimant has tendered the Ration Cards (Annexure-H & Annexure-H/1). The old Ration Card (Annexure-H) has been issued in favour of his father, Bhagwat Mahto, on 22.06.2002 and the name of the Appellant/Claimant is mentioned. The new Ration Card

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(Annexure-H/1) has been issued in favour of his mother, Rajkali, and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. 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 Jhuggi No. A-2 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above both the interconnected rooms on the ground floor of the Jhuggi No. A-2 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. A-2 of his parents, Bhagwat Mahto & Rajkali, for all purposes and DDA has already made allotment in favour of his mother, Rajkali, regarding the ground floor of the said Jhuggi No. A-2. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of his mother, Rajkali, therefore, Sanjay (Appellant/Claimant of Appeal No. 330 of 2023) is not entitled to seek second allotment from DDA against the ground floor.

24. The material placed on file shows that both the interconnected rooms on the ground floor of the Jhuggi No. A-2 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. A-2 of his parents, Bhagwat Mahto & Rajkali, for all purposes and DDA has already made allotment in favour of his mother, Rajkali, regarding the ground floor of said Jhuggi No. A-2. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of his mother, Rajkali, therefore, Sanjay (Appellant/Claimant of Appeal No. 330 of 2023) is not entitled to seek second allotment from DDA against the ground floor. The documents, Annexure-A to Annexure-I, 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.

25. Accordingly, we have no hesitation in holding that both the interconnected rooms on the ground floor of the Jhuggi No. A-2 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. A-2 of his parents, Bhagwat Mahto & Rajkali, for all purposes and DDA has already made allotment in favour of his mother, Rajkali, regarding the ground floor of the said Jhuggi No. A-2. Accordingly, two

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allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of his mother, Rajkali, therefore, Sanjay (Appellant/Claimant of Appeal No. 330 of 2023) is not entitled to seek second allotment from DDA against the ground floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

26. 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. 385/6/75.1/1225 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

27. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 331 of 2023

Date of Institution: 28.11.2022

Date of Order: 11.08.2023

Present: Appellant/Claimant Dinesh Prasad S/o Ram Swarup Prasad

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-2, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-2 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/6/77.2/1226 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 331 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 08.08.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-2 was found to exist but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 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.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 upper floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Dinesh Prasad, has been recorded before us on 08.08.2023 wherein he has stated that his in-laws, Bhagwat Mahto & Rajkali, are having three sons, Santosh, Jitender & Sanjay and two daughters Neelam & Poonam. All

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the children extept Jitender are married. Poonam is married with Amarjeet and she is living in her matrimonial home in Bihar. Santosh is married with Pritam and having one daughter Sonam. Sanjay is married with Gita and having one daughter Naina. Neelam is married with Dinesh (Appellant/Claimant) and having three children, Mahi, Aditya, & Siya.

8. The Appellant/Claimant has stated that the family of his in-laws is having a triple storey Jhuggi bearing No. A-2 and it comprises of two interconnected rooms on the ground floor, one room each on the first & the second floor and a pucca staircase has been constructed outside for going from the ground floor to the upper floor.

9. It is pointed out at the very outset that there are two interconnected rooms on the ground floor of the Jhuggi No. A-2 and accordingly both the rooms on the ground floor are not separate & independent dwelling unit but both are part & parcel of one dwelling unit of his in-laws, Bhagwat Mahto & Rajkali, on the ground floor bearing Jhuggi No. A-2 for all purposes.

10. The Appellant/Claimant has stated that his in-laws, Bhagwat Mahto & Rajkali are living in one of the interconnected rooms on the ground floor of the Jhuggi No. A-2 and regarding that DDA has made allotment in favour of his mother-in-law Rajkali. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that Sanjay along with his wife Gita and daughter Naina is living in the second interconnected rooms on the ground floor of the Jhuggi No. A-2 and regarding that Sanjay has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 330 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that Santosh along with his wife Pritam and daughter Sonam is living on the second floor of the Jhuggi No. A-2 and regarding that Santosh has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 334 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

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13. The Appellant/Claimant has stated that he along with his wife Neelam and children, Mahi, Aditya, & Siya, is living on the second floor of the Jhuggi No. A-2. The Appellant/Claimant has sought allotment from DDA against the second interconnected room on the ground floor of the Jhuggi No. A-2 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 331 of 2023 before the Appellate Authority for redressal. 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.

14. It is pointed out that all the three appeals bearing Appeal No. 330 of 2023, Appeal No. 331 of 2023 and Appeal No. 334 of 2023shall we decided separately on their individual merits.

15. DDA has furnished the survey records along with sixteen video clip of the Jhuggi No. A-2. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 08.08.2023 wherein the Appellant/Claimant has stated that ten video clips pertain to the ground floor of the Jhuggi No. A-2 in which in one of the interconnected rooms on the ground floor his in-laws, Bhagwat Mahto & Rajkali, are seen whereas in the second room Sanjay (Appellant/Claimant of Appeal No. 330 of 2023) is seen and their respective rooms/kitchens are also seen. The next three video clips pertain to the first floor of the said Jhuggi No. A-2 in which Santosh (Appellant/Claimant of Appeal No. 334 of 2023) is seen and further, his room & kitchen are also seen. The next three video clips pertain to the second floor in which Neelam, who is wife of Dinesh (Appellant/Claimant of Appeal No. 331 of 2023) is seen and further, room & kitchen of Dinesh are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. A-2 being used for residential purposes, was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and his in-laws, Bhagwat Mahto & Rajkali, as well as brother-in-law, Sanjay (Appellant/Claimant of Appeal No. 330 of 2023) are living in two inter-connected rooms on the ground floor whereas the family of his brother-in-law, Santosh (Appellant/Claimant of Appeal No. 334 of 2023) is living on the first floor and further the family of Dinesh (Appellant/Claimant of Appeal No. 331 of 2023) is living on the second floor.

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16. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-2 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the second floor of the said Jhuggi for residential purposes.

17. Now we shall first appraise the material placed on file to determine the eligibility on other parameters 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 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 second floor as per the policy guidelines issued by DDA.

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

19. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. 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 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 he 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. 385/6/77.2/1226 dated 07.11.2022.

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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 is 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</u>**

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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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

21. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

22. It is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative

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allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part–B Para 10 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. 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.

24. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card 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: -

"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.

25. 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

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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 with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

26. 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) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

27. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015

GIST OF THE POLICY

28. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013,

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2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

29. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further 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.

30. 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 he 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.

31. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

32. The Appellant/Claimant has tendered his Voter ID Card No. GCB 0925396 (Annexure-A) and Aadhar Card (Annexure-B).

33. It is pointed out that the Voter ID Card No. GCB 0925396 (Annexure-A) has been issued on 17.01.2023, 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) & of the year of survey. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 and his name also does not appear in in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-

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2015) & of the year of survey. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

34. 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 the second floor of the Jhuggi No. A-2 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the Ration Card (Annexure-G), has been issued in favour of his father-in-law, Bhagwat Mahto, on 10.09.2009 and the name of his wife Neelam is mentioned but the name of the Appellant/Claimant is not mentioned. 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 Jhuggi No. A-2 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

35. The Appellant/Claimant has tendered the Aadhar Card (Annexure-C) & PAN Card (Annexure-D) of his wife Neelam as well as Electricity Bill (Annexure-E) and Driving Licence (Annexure-F).

36. It is pointed out that the Electricity Bill (Annexure-E) shows that the electricity connection has been taken by his father-in-law, Bhagwat Mahto, on 08.07.2008 on the ground floor of the Jhuggi No. A-2 thereby showing that the Appellant/Claimant was not having an electricity connection on the second floor of the Jhuggi No. A-2 thereby showing that the Appellant/Claimant was not having an electricity connection on the second floor of the Jhuggi No. A-2. 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 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

37. The material placed on file shows that the name of the Appellant/ Claimant does not appear in 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 he was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of second floor of the Jhuggi No. A-2 regarding which he is

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claiming allotment from DDA and further he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy. The documents, Annexure-A to Annexure-G, 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.

38. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. A-2 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further the name of the Appellant/ Claimant does not appear in 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 also that the he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. A-2 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 guidelines issued by DDA.

39. 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. 385/6/77.2/1226 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

40. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 334 of 2023

Date of Institution: 28.11.2022

Date of Order: 11.08.2023

Present: Appellant/Claimant Santosh Kumar S/o Bhagwat Mehto

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-2, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-2 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/6/91.1/1234 dated

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07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 334 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 08.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-2 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 upper floor as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Santosh Kumar, has been recorded before us on 08.08.2023 wherein he has stated that his parents, Bhagwat Mahto & Rajkali, are

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having three sons, Santosh, Jitender & Sanjay and two daughters Neelam & Poonam. All the children extept Jitender are married. Poonam is married with Amarjeet and she is living in her matrimonial home in Bihar. Neelam is married with Dinesh and having three children, Mahi, Aditya, & Siya. Sanjay is married with Gita and having one daughter Naina. Santosh (Appellant/Claimant) is married with Pritam and having one daughter Sonam.

9. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi bearing No. A-2 and it comprises of two interconnected rooms on the ground floor, one room each on the first & the second floor and a pucca staircase has been constructed outside for going from the ground floor to the upper floor.

10. It is pointed out at the very outset that there are two interconnected rooms on the ground floor of the Jhuggi No. A-2 and accordingly both the rooms on the ground floor are not separate & independent dwelling unit but both are part & parcel of one dwelling unit of his parents, Bhagwat Mahto & Rajkali, on the ground floor bearing Jhuggi No. A-2 for all purposes.

11. The Appellant/Claimant has stated that his parents, Bhagwat Mahto & Rajkali are living in one of the interconnected rooms on the ground floor of the Jhuggi No. A-2 and regarding that DDA has made allotment in favour of his mother Rajkali. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that Sanjay along with his wife Gita and daughter Naina is living in the second interconnected rooms on the ground floor of the Jhuggi No. A-2. Sanjay has sought allotment from DDA against the second interconnected room on the ground floor of the Jhuggi No. A-2 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 330 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

13. The Appellant/Claimant has stated that her sister Neelam along with her husband Dinesh is living on the second floor of the Jhuggi No. A-2 and regarding that Dinesh has sought allotment from DDA but his claim has been rejected by the Eligibility

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Determination Committee and aggrieved by the same, he has filed the Appeal No. 331 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

14. The Appellant/Claimant has stated that he along with his wife Pritam and daughter Sonam is living on the first floor of the Jhuggi No. A-2. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-2 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 334 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

15. It is pointed out that all the three appeals bearing Appeal No. 330 of 2023, Appeal No. 331 of 2023 and Appeal No. 334 of 2023 shall we decided separately on their individual merits.

16. DDA has furnished the survey records along with sixteen video clip of the Jhuggi No. A-2. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 08.08.2023 wherein the Appellant/Claimant has stated that ten video clips pertain to the ground floor of the Jhuggi No. A-2 in which in one of the interconnected rooms on the ground floor his parents, Bhagwat Mahto & Rajkali, are seen whereas in the second room Sanjay (Appellant/Claimant of Appeal No. 330 of 2023) is seen and their respective rooms/kitchens are also seen. The next three video clips pertain to the first floor of the said Jhuggi No. A-2 in which Santosh (Appellant/Claimant of Appeal No. 334 of 2023) is seen and further, his room & kitchen are also seen. The next three video clips pertain to the second floor in which Neelam, who is wife of Dinesh (Appellant/Claimant of Appeal No. 331 of 2023) is seen and further, room & kitchen of Dinesh are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. A-2 being used for residential purposes, was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and his parents, Bhagwat Mahto & Rajkali, as well as Sanjay (Appellant/Claimant of Appeal No. 330 of 2023) are living in two inter-connected rooms on the ground floor whereas the family of Santosh

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(Appellant/Claimant of Appeal No. 334 of 2023) is living on the first floor and further the family of his brother-in-law, Dinesh (Appellant/Claimant of Appeal No. 331 of 2023) is living on the second floor.

17. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-2 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

18. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & 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 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-J, in support of her claim and prayed that DDA be directed to make allotment in his favour.

20. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card 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 separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/6/91.1/1234 dated 07.11.2022.

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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.
>
> **<u>As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:</u>**
>
> - Passport.
> - Ration Card with photograph.
> - Electricity Bill
> - Driving License.
> - Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
> - Passbook issued by public sector Bank/Post Office with photograph.
> - SC/ST/OBC certificates issued by Competent Authority with photograph.

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

22. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

23. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is

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

GIST OF THE POLICY

25. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

26. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

27. The Appellant/Claimant has tendered his Voter ID Card No. CXY 1538164 (Annexure-A), Aadhar Card (Annexure-B) & Voter List of the year 2012 (Annexure-J).

28. It is pointed out that the Voter ID Card No. CXY 1538164 (Annexure-A) has been issued on 10.12.2005, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 83 in the Voter List of the year 2012 (Annexure-J). However, the Appellant/Claimant has not tendered the Voter List of the year's 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey to show that by using the Voter ID Card No. CXY 1538164 (Annexure-A) he had cast his votes during these years. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012 but there is no material placed on file to show that

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his name appears in the Voter List of the year's 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

29. 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. A-2 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the Ration Cards (Annexure-H & Annexure-I). The old Ration Card (Annexure-H) has been issued in favour of his father, Bhagwat Mahto, on 22.06.2002 and the name of the Appellant/Claimant is mentioned. The new Ration Card (Annexure-I) has been issued in favour of his mother, Rajkali, and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

30. The Appellant/Claimant has tendered his Driving Licence (Annexure-C) as well as Voter ID Card No. ARE 2025492 (Annexure-D) & Aadhar Card of his wife Pritam and Electricity Bill (Annexure-F) & Aadhar Card (Annexure-G) of his daughter Sonam.

31. It is pointed out that the Driving Licence of the Appellant/Claimant has been issued on 16.03.2009. The Voter ID Card No. ARE 2025492 (Annexure-D) of his wife, Pritam, has been issued on 21.01.2015, much after the cut off date of 01.01.2015. The Electricity Bill (Annexure-F) shows that the electricity connection has been taken by his father, Bhagwat Mahto, on 08.07.2008 on the address of the ground floor of the Jhuggi No. A-2 thereby showing that the Appellant/Claimant was not having an electricity connection on the first floor of the Jhuggi No. A-2 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a 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

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floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

32. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-J, 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 separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-2 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, which make separate Ration Card a mandatory document for the upper floor.

33. 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. 385/6/91.1/1234 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

34. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 440 of 2023

Date of Institution: 29.11.2022

Date of Order: 11.08.2023

Present: None for the Appellant/ Claimant Mona Sarkar S/o Sapan Sarkar

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 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. B-266, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-62 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/68/122.2/1590 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the

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same, the present Appeal No. 440 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-266 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure her presence but without any response as she has never appeared

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before us. The perusal of the Zimni Orders shows that the Appeal was put up before us for the first time on 24.01.2023 but the Appellant/ Claimant had failed to appear on 24.01.2023 and the matter was fixed for 24.02.2023 for procuring his presence. But the Appellant/ Claimant did not appear on 24.02.2023 and accordingly fresh notice for 27.03.2023 was issued to procure the appearance of the present Appellant/ Claimant. But the Appellant/ Claimant did not appear on 27.03.2023 and accordingly fresh notice for 26.04.2023 was issued to procure the appearance of the present Appellant/ Claimant. But he had failed to appear on 26.04.2023. Fresh notice was issued on 26.04.2023 to procure his presence for 09.05.2023. The Appellant/ Claimant did not appear on 09.05.2023 and accordingly fresh notice was issued on 21.06.2023 to procure her presence. But the file was taken up on 30.05.2023 and the appeal was fixed for 04.08.2023 to give priority to other cases and fresh notice was issued to procure his presence for 04.08.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 04.08.2023 in spite of due service.

7. On 04.08.2023 fresh notice was issued for 07.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

8. However, still none appeared on 07.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 08.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

9. However, still none appeared on 08.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 09.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an

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attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

10. However, still none appeared on 09.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 10.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

11. However, still none appeared on 10.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 11.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

12. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 11.08.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 440 of 2023 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether she is entitled for alternate allotment as per policy guidelines issued by DDA.

13. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the

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voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

14. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & Ration Card etc. as on 01.01.2015 and 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. The documents available on file 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.

15. In view of the matter the present we have no hesitation in holding that 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. 385/68/122.2/1590 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No.440 of 2022 instituted on 29.11.2022 is dismissed being devoid of any merit.

16. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 359 of 2023

Date of Institution: 29.11.2022

Date of Order: 14.08.2023

Present: Appellant/Claimant Bibha Dhali W/o Atal Dhali

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-229, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-229 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No.

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385/18/21.1/757 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 359 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 25.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-D, 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-293 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter ID Not Verified // No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on 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 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Bibha Dhali, has been recorded before us on 25.07.2023 wherein she has stated that she was married with Atal Dhali and having

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five daughters, Konika, Sheela, Monika, Annu & Kajal. Atal Dhali had expired in the year 2000. All except Kajal are married. Annu is married with Monu and she is living in her matrimonial home in Punjabi Bagh, Delhi. Monika is married with Monmitul and she is living in her matrimonial home in Bhoomiheen Camp, Kalkaji, and allotment has been made in favour of Monika against her matrimonial side. Sheela is married with Mitul. Koniaka is married with Bappi and having two children, Aniket & Riddi.

9. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. C-229 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that Konika along with her husband Bappi and both the children is living on the ground floor of Jhuggi No. C-229 and regarding that DDA has made allotment in favour of her daughter, Konika. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that she along with her unmarried daughter Kajal as well as family of another daughter Sheela is living on the first floor of the Jhuggi No. C-229. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. C-229 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 359 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document Annexure-A to Annexure-D, in support of her claim and prayed that DDA be directed to make allotment in her favour.

12. DDA has furnished the survey record along with two video clips pertaining to Jhuggi No. C-229. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 25.07.2023 wherein the Appellant/Claimant has stated that both video clip pertain to the ground floor in which a pucca staircase going from ground floor to the first floor is seen and further, Konika D/o Atal Dhali & Bibha Dali is seen and her room & kitchen are also seen. No video of the first floor of the Jhuggi No. C-229 is available. The Appellant/Claimant has categorically stated that she has not got the survey conducted of the first floor accordingly no video of the first floor of Jhuggi No. C-229 regarding which the Appellant/Claimant is claiming allotment from DDA was prepared at the time of survey. However, the photographs taken by the survey team are placed on file and the same corroborates the statement of the

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Appellant/Claimant that Jhuggi No. C-229 is a double storey structure and she was living on the first floor of the said Jhuggi at the time of survey. Thus the statement of the Appellant/Claimant as well as the survey records/video clips/photographs has duly proved that a double storey Jhuggi No. C-229 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by her daughter Konika and her family, whereas the first floor is used for residential purposes by Bibha Dhali (Appellant/ Claimant of Appeal No. 359 of 2023) along with her unmarried daughter Kajal as well as the family of her daughter Sheela.

13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-229 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including 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 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-D, in support of her claim and prayed that DDA be directed to make allotment in her favour.

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

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cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/18/21.1/757 dated 07.11.2022.

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.
>
> **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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued

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before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

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

24. The Appellant/Claimant has tendered Voter ID Card No. ARE 2567998 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C).

25. It is pointed out that the Voter ID Card No. ARE 2567998 (Annexure-A) has been issued on 14.12.2021, much after the cutoff date 01.01.2015 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) & of the year of survey does not arise. Therefore, we have no hesitation in

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holding that the Appellant/ Claimant was not having a Voter ID Card on the cut-off date of 01.01.2015 and her name 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 accordingly we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

26. The Appellant/Claimant has admitted that she 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. C-229 regarding which she 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. C-229 regarding which she 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

27. The Appellant/Claimant has tendered the Passbook of PNB (Annexure-D) and it shows that the Appellant/Claimant had opened the account on 16.12.2015, much after the cutoff date 2015. It is pointed out that the above-mentioned document is of no help to the Appellant/Claimant because this document does 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 separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor.

28. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card on the cut-off date of 01.01.2015 and her name 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 she was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-D, 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 cut-off date of 01.01.2015 and her name 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) & of the year of survey and further she was not having a separate Ration Card on the cutoff date of 01.01.2015 inspite of the fact that she is claiming allotment against the upper floor.

29. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut-off date of 01.01.2015 and her name 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 she 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. C-229 regarding which she is claiming allotment from DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

30. 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. 385/18/21.1/757 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

31. 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.

14/8/2023

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

14/8/2023

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

14/8/2023

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 638 of 2023

Date of Institution: 28.12.2022

Date of Order: 14.08.2023

Present: Appellant/Claimant Biswajit Tarai S/o Santan Tarai

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-74, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-74 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/36/32.1/947 dated

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07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 638 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 18.07.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-74 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DDA

8. The statement of the Appellant/Claimant, Biswajit Tarai, has been recorded before us on 18.07.2023 wherein he has stated that his parents, Sanatan Tarai & Kalyani Tarai,

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are having one son Biswajit Tarai. Biswajit Tarai (Appellant/Claimant) is married with Ranu and having two sons, Ankit & Akshit

9. The Appellant/Claimant has stated that his parents, Sanatan Tarai & Kalyani Tarai, are having double storey Jhuggi No. C-74 and it comprises of one room on each floor and an iron ladder is placed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that his parents, Sanatan Tarai & Kalyani, are living on the ground floor of the Jhuggi No. C-74 and regarding that DDA has made allotment in favour of his mother Kalyani. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Ranu and both the sons, Ankit & Akshit, is living on the first floor of the Jhuggi No. C-74. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. C-74 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 638 of 2023 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.

12. DDA has furnished the survey record along with four video clips pertaining to Jhuggi No. C-74. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 18.07.2023 wherein the Appellant/Claimant has stated that three video clips pertain to the ground floor of Jhuggi No. C-74 in which his parents, Sanatan Tarai & Kalyani, are seen and their room & kitchen are also seen. The fourth video clip pertains to the first floor of the Jhuggi No. C-74 in which an iron ladder, which is placed outside in the gali, for going to the upper floor is seen and further, the Appellant/Claimant, Biswajit is seen and his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No.C-74 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by his parents, Sanatan Tarai & Kalyani, whereas the first floor is used for residential purposes by Biswajit Tarai (Appellant/ Claimant of Appeal No. 638 of 2023).

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13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No.C-74 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & 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 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-N, in support of her 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 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 he 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. 385/36/32.1/947 dated 07.11.2022.

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.

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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.
- 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

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012,

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2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

22. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

23. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A and Annexure-B), Aadhar Card (Annexure-C), PAN Card (Annexure-D), Voter List of the year 2014 (Annexure-M) and Voter List of the year 2019 (Annexure-N).

24. It is pointed out that the Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B). Both the Voter ID Cards are bearing the same numbers, i.e., CXY 1080852. The first Voter ID Card No. CXY 1080852 (Annexure-A) has been issued on 09.03.2002 and the second Voter ID Card No. CXY 1080852 (Annexure-B) has been issued on 05.03.2013, thereby, showing that both the Voter ID Cards (Annexure-A & Annexure-B) have been issued much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 419 in the Voter List of the year 2014 (Annexure-M) and at Sl. No. 458 in the Voter list of the year 2019 (Annexure-N). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut-off date of 01.01.2015 and his name also appears in the voter list of the year's 2014 & also in the year of survey.

25. 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. C-74 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered his two Ration Cards (Annexure-G & Annexure-H). The old Ration Card (Annexure-G) has been issued in the name of his father, Sanatan Tarai, on 12.10.2004

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and the name of the Appellant/Claimant is also mentioned. The new Ration Card (Annexure-H) has been issued in favour of his mother, Kalyani Tarai, and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. 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 Jhuggi No. C-74. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

26. The Appellant/Claimant has tendered the Electricity Bill (Annexure-E), the Passbook of SBI (Annexure-F), Driving License (Annexure-I), Aadhar Card (Annexure-J) & Voter ID Card No. ARE 1654358 (Annexure-L) of his wife Ranu and the Passbook of PNB (Annexure-K).

27. It is pointed out that the Electricity Bill (Annexure-E) shows that the electricity connection has been taken by his father Sanatan Tarai on 12.06.2008 on the ground floor of the Jhuggi No. C-74, thereby, showing that the Appellant/Claimant was not having separate Electricity connection on the first floor of Jhuggi No. C-74 regarding which he is claiming allotment from DDA. The Passbook of SBI shows that the Appellant/Claimant had opened the account 15.09.2023. The Driving License (Annexure-I) of the Appellant/Claimant has been issued on 16.01.2004. The Passbook of PNB (Annexure-K) shows that the Appellant/Claimant had opened the account 12.11.2008. The Voter ID Card No. ARE 1654358 (Annexure-L) of his wife Ranu has been issued on 29.08.2013. 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 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.

28. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-N, 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 separate Ration

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Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

29. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-74 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, which make separate Ration Card a mandatory document for the upper floor.

30. 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. 385/36/32.1/947 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

31. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 645 of 2023

Date of Institution:02.01.2023

Date of Order: 14.08.2023

Present: Appellant/ Claimant Santosh Singh S/o Bilat Singh

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 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-586, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-586 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/19/20.1/804 dated 07.11.2022 to

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the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 645 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 25.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-586 was found to exist on the first floor but he had failed to submit required documents, i.e., Voter ID Card & separate Ration Card 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Santosh Singh, has been recorded before us on 25.07.2023, wherein he has stated that his parents, Billet & Janki, are having two sons Ashok & Santosh. Ashok is married with Soni and having two children Ayush &

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Naina. Santosh (Appellant/Claimant) is married with Aarti and having four children, Natti, Shrishti, Sumiran & Vaibhav.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. C-586 and it comprises of one room on each floor and an iron ladder is placed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that his parents, Billet & Janki, along with the family of Ashok are living on the ground floor of Jhuggi No. C-586 regarding that DDA has made allotment in favour of his mother Janki. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Aarti and all the four children, Natti, Shrishti, Sumiran & Vaibhav, is living on the first floor of Jhuggi No. C-586. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. C-586 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No.645 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished the survey record along with five video clips pertaining to Jhuggi No. C-586. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 25.07.2023 wherein the Appellant/Claimant has stated that the three video clips pertain to the ground floor of the Jhuggi No. C-586 in which his mother Janki is seen and the room & kitchen of Janki are also seen and further the Jhuggi is clearly seen to be a double storey Jhuggi and an iron ladder, which is placed outside in the gali for going to the upper floor is also seen. The next two video clips pertain to the first floor of the Jhuggi No. C-586 in which the Appellant/Claimant is seen and further, his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. C-586 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

13. Accordingly, we have no hesitation in holding that the Jhuggi No. C-586 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the

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cutoff date of 01.01.2015 and further, the Appellant/ Claimant & his family is living on the first floor of the said Jhuggi.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 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 his claim and prayed that DDA be directed to make allotment in his favour.

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he 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. 385/19/20.1/804 dated 07.11.2022.

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.

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

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

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

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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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is

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

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DDA.

23. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1179050 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-K) and Voter List of the year 2019 (Annexure-L).

24. It is pointed out that the Voter ID Card No. ARE 1179050 (Annexure-A) has been issued on 27.10.2008, much prior to the cutoff date 01.01.2015 and the name of the Appellant/Claimant appears at Sl. No. 426 in the Voter List of the year 2014 (Annexure-K) and at Sl. No. 425 in the Voter List of the year 2019 (Annexure-L). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut-off date of 01.01.2015 and his name also appears in the voter list of the year's 2014 & also in the year of survey.

25. 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. C-

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586 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered joint Ration Card (Annexure-J), which has been issue in favour of his mother Janki and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. 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 Jhuggi No. C-586. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

26. The Appellant/Claimant has tendered his Driving License (Annexure-D), Electricity Bill (Annexure-E), the Passbook of SBI (Annexure-F), as well as Voter ID Card No. ARE 1179076 (Annexure-G), Aadhar Card (Annexure-H) & PAN Card (Annexure-I) of his wife Aarti.

27. It is pointed out that Driving License (Annexure-D) of the Appellant/Claimant has been issued on 27.09.2021, much after the cutoff date 01.01.2015. The Electricity Bill (Annexure-E) shows that the electricity connection has been taken by his father Billet on the ground floor of the Jhuggi No. C-586, thereby, showing that the Appellant/Claimant was not having separate connection on the first floor of the Jhuggi No. C-586 regarding which he is claiming allotment from DDA. The Passbook of SBI (Annexure-F) shows that the Appellant/Claimant had opened the account on 20.10.2011. The Voter ID Card No. ARE 1179076 (Annexure-G) of his wife Aarti has been issued on 27.10.2008. 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 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.

28. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-L, 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 separate Ration

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Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

29. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-586 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, which make separate Ration Card a mandatory document for the upper floor.

30. 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. 385/19/20.1/804 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

31. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 657 of 2023

Date of Institution:11.01.2023

Date of Order: 14.08.2023

Present: Appellant/ Claimant Kalyani Sarkar W/o Ashish Sarkar

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 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-329, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-329 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/61/20.11F/1270 dated

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07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 657 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 02.08.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-329 was found to exist on the first floor but she had failed to submit required documents, i.e., Voter ID Card & separate Ration Card 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on 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 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Kalyani Sarkar, has been recorded before us on 02.08.2023, wherein she has stated that her in-laws, Subodh & Putul, are having six sons, Ashish, Manik, Hira Lal, Bablu, Chhotu & Johar and one daughter, Nivedita,

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Subodh had expired about 8 years ago. Chhotu had died unmarried and issueless in the year 2021. Hira Lal, Bablu & Johar are unmarried. Johar is living on rent in Tughlaqabad in Delhi. Nivedita is married with Pankaj and she is living in her matrimonial home in Bhoomiheen Camp regarding that DDA has made allotment in her favour from her matrimonial side. Manik is married with Beauty and they are living in Madhya Pradesh. Ashish is married with Kalyani (Appellant/Claimant) and having two sons, Sushil & Subham. Ashish had died on 21.04.2013 and his Death Certificate is Annexure-E.

9. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. A-329 and it comprises of one room on each floor and an iron ladder is placed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated her mother-in-law, Putul, along with her unmarried sons, Hira Lal & Bablu, is living on the ground floor of the Jhuggi No. A-329 and regarding that DDA has made allotment in favour of her mother-in-law, Putul. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that she along with her husband (until his death on 21.04.2013) and both the sons, Sushil & Subham, is living on the first floor of the Jhuggi No. A-329. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-329 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 657 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-L, in support of her claim and prayed that DDA be directed to make allotment in her favour

12. DDA has furnished the survey record along with three video clips pertaining to Jhuggi No. A-329. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 02.08.2023 wherein the Appellant/Claimant has stated that the first video clip pertains to the ground floor of the Jhuggi No. A-329 in which her brother-in-law, Bablu, is seen getting the survey conducted on behalf of his mother Putul and further the room & kitchen of Putul are seen. The next two video clips pertain to the first floor of the Jhuggi No. A-329 in which an iron ladder, which is

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placed on the ground floor and used for going to the upper floor is seen and further the Appellant/Claimant is seen and her room & kitchen are also seen. 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-329 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

13. Accordingly, we have no hesitation in holding that the Jhuggi No. A-329 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further, the Appellant/ Claimant & her family is living on the first floor of the said Jhuggi.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on 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 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 cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because 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. 385/61/20.11F/1270 dated 07.11.2022.

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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.
>
> **<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>**

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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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20. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on 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 as per the policy guidelines issued by DDA.

23. The Appellant/Claimant has tendered her Voter ID Card No. ARE 1155100 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-K) and Voter List of the year 2019 (Annexure-L).

24. It is pointed out that the Voter ID Card No. ARE 1155100 (Annexure-A) has been issued on 08.05.2013, much prior to the cutoff date 01.01.2015 and the name of the

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Appellant/Claimant appears at Sl. No. 571 in the Voter List of the year 2014 (Annexure-K) and at Sl. No. 632 in the Voter List of the year 2019 (Annexure-L). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut-off date of 01.01.2015 and his name also appears in the voter list of the year's 2014 & also in the year of survey.

25. The Appellant/Claimant has admitted that she 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. A-329 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered Ration Card (Annexure-H), which has been issued in favour of her Mother-in-law, Putul, and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. 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 Jhuggi No. A-329. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

26. The Appellant/Claimant has tendered her Passbook of PNB (Annexure-D), Electricity Bill (Annexure-GF) Passport (Annexure-G), Aadhar Cards of her sons Sushil & Shubham (Annexure-I & Annexure-J) respectively.

27. It is pointed out that the Passbook of PNB (Annexure-D) shows that the Appellant/Claimant had opened the account on 16.07.2013. The Electricity Bill (Annexure-F) shows that the electricity connection has been taken by her father-in-law, Subodh, on 10.06.2008 on the ground floor of the Jhuggi No. A-329 thereby showing that the Appellant/Claimant was not having a separate electricity connection on the first floor of the Jhuggi No. A-329 regarding which she is claiming allotment from DDA. The Passport (Annexure-G) of the Appellant/Claimant has been issued on 29.11.2019. 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 separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor.

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28. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-L, 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 separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she is claiming allotment against the upper floor.

29. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-329 regarding which she is claiming allotment from DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

30. 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. 385/61/20.11F/1270 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

31. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 659 of 2023

Date of Institution: 12.01.2023

Date of Order: 14.08.2023

Present: Appellant/Claimant Sanjeev Sikdar S/o Subhash Sikdar

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-75, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-75 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/36/31.1/946 dated

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07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 659 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 20.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-75 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DDA

8. The statement of the Appellant/Claimant, Sanjeev Sikdar, has been recorded before us on 20.07.2023, wherein he has stated that his parents, Subhash & Rekha, are having one son, Sanjeev and three daughters, Manju, Anjana & Meena. Subhash had expired on

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05.02.2022. All the children are married. Anjana is married with Vipul and she is living in her matrimonial home in Faridabad, Haryana. Manju is married with Alok and she is living in her matrimonial home in Chattisgarh. Manju is married with Prakash and she is living in her matrimonial home in Bhoomiheen Camp, Kalkaji and regarding that DDA has made allotment in her favour from her matrimonial side. Sanjeev (Appellant/Claimant) is married with Konica and having three children, Sneha, Shrishti & Siksha.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. C-75 and it comprises of one room on each floor and an iron ladder is placed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that his parents, Subhash (Until his death on 05.02.2022) & Rekha, are living on the ground floor of Jhuggi No. C-75, regarding that DDA has made allotment in favour of his mother Rekha. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Konica and all the three children, Sneha, Shristi & Siksha, is living on the first floor of the Jhuggi No.C-75. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. C-75 but his claim has been rejected by the eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 659 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished the survey record along with two video clips pertaining to Jhuggi No. C-75. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 20.07.2023 wherein the Appellant/Claimant has stated that first video clip pertains to the ground floor of the Jhuggi No. C-75 in which his mother Rekha is seen and further, her room & kitchen are also seen. The second video clip pertains to the first floor of the Jhuggi No. C-75 in which his wife Konica is seen and further, the room & kitchen on the first floor are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. C-75 was in existence in the Bhoomiheen Camp

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on the cutoff date of 01.01.2015 and the first floor of the said Jhuggi was used by the Appellant/ Claimant for residential purposes.

13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-75 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & 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 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 his claim and prayed that DDA be directed to make allotment in his favour.

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/36/31.1/946 dated 07.11.2022.

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

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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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment

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against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

23. The Appellant/Claimant has tendered his Voter ID Card No. CXY 1076645 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-K) and Voter List of the year 2019 (Annexure-L).

24. It is pointed out that the Voter ID Card No. CXY 1076645 (Annexure-A) has been issued on 07.03.2002, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 422 in the Voter List of the year 2014 (Annexure-K) and at Sl. No. 471 in the Voter List of the year 2019 (Annexure-L). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a

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Voter ID Card on the cut-off date of 01.01.2015 and his name also appears in the voter list of the year's 2014 & also in the year of survey.

25. 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. C-75 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered two Ration Cards (Annexure-G & Annexure-H). The old Ration Card (Annexure-G) has been issued in favour of his father Subhash on 17.03.2005 and the name of the Appellant/Claimant is mentioned. The new Ration Card (Annexure-H) has been issued in favour of his mother Rekha and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. 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. C-75. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

26. The appellant/Claimant has tendered the Voter ID Card No. CXY 1165707 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Konica, the Electricity Bill (Annexure-I) and the Passbook of Union Bank of India (Annexure-J).

27. It is pointed out that Voter ID Card No. CXY 1165707 (Annexure-D) of his wife Konica has been issued on 24.04.2010. The Electricity Bill (Annexure-I) shows that the electricity connection has been taken by his father Subhash on 06.06.2008 on the ground floor of the Jhuggi No. C-75, thereby, showing that the Appellant/Claimant was not having separate electricity connection on the first floor of the Jhuggi No. C-75 regarding which he is claiming allotment from DDA. The Passbook of Union Bank of India (Annexure-J) shows that his wife Konica had opened the account on 07.10.2019, much after the cutoff date 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not 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.

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28. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-L, 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 separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

29. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-75 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, which make separate Ration Card a mandatory document for the upper floor.

30. 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. 385/36/31.1/946 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

31. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 666 of 2023

Date of Institution: 13.01.2023

Date of Order: 14.08.2023

Present: Appellant/Claimant Deepak Mandal S/o Brajesh Mandal

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-150, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-150 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/9/5.1/1676 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 666 of 2023 has been filed by the present Appellant/Claimant.

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3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 25.07.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-150 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be "**No Separate Ration Card for Upper Floor Jhuggi**" and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Deepak Mandal, has been recorded before us on 25.07.2023, wherein he has stated that his parents, Brijesh & Sulata, are having one son, Deepak and two daughters, Deepa & Pratapi. Brijesh had taken divorce and after that Sulata is living with her children. All the children are married. Deepa is married with Biman and she is living with her mother in Bhoomiheen Camp, Kalkaji. Pratapi is

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married with Uttam and she is living in her matrimonial home in Bhoomiheen Camp and DDA has made allotment in her favour against her matrimonial side. Deepak (Appellant/Claimant) is married with Deepika and having one son Vivan.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. C-150 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that his mother Sulata along with the family of her daughter Deepa is living on the ground floor of the Jhuggi No. C-150 and regarding that DDA has made allotment in favour of his mother Sulata. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Deepika and son Vivan is living on the first floor of the Jhuggi No. C-150. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. C-150 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 666 of 2023 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.

12. DDA has furnished the survey record along with two video clips pertaining to Jhuggi No. C-150. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 25.07.2023 wherein he has stated that the first video clip pertains to the ground floor of Jhuggi No. C-150, in which his mother Sulata is seen and further, her room & kitchen are also seen. The second video clip pertains to the first floor of the Jhuggi No. C-150 in which the Appellant/Claimant Deepak is seen and further, his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey pucca Jhuggi No. C-150 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purpose.

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13. Accordingly, we have no hesitation in holding that the double storey pucca Jhuggi No. C-150 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family is using the first floor of the said Jhuggi for residential purpose.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & 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 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-N, in support of his claim and prayed that DDA be directed to make allotment in his favour.

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/9/5.1/1676 dated 07.11.2022.

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

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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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment

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against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

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

24. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1171180 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2008 (Annexure-I), Voter List of the year 2012 (Annexure-J), Voter List of the year 2013 (Annexure-K), Voter List of the year 2014 (Annexure-L), Voter List of the year 2015 (Annexure-M) and Voter List of the year 2019 (Annexure-N).

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25. It is pointed out that Voter ID Card No. ARE 1171180 (Annexure-A) of the Appellant/Claimant has been issued on 27.10.2008, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 871 in the Voter List of the year 2008 (Annexure-I), at Sl. No. 689 in the Voter List of the year 2012 (Annexure-J), at Sl. No. 689 in the Voter List of the year 2013 (Annexure-K), at Sl. No. 729 in the Voter List of the year 2014 (Annexure-L), at Sl. No. 791 in the Voter List of the year 2015 (Annexure-M) and at Sl. No. 784 in the Voter List of the year 2019 (Annexure-N). It is pointed out that in all these Voter Lists (Annexure-I to Annexure-N) the number of Voter ID Card of the Appellant/Claimant is mentioned to be ARE 1171180 and further his address is mentioned to be C-150 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the guidelines issued by DDA.

26. The Appellant/Claimant has stated that he was having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-150 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered his Ration Card No. 077004585486 (Annexure-G), which has been issued in his favour on 14.10.2014, much prior to the cutoff date 01.01.2015 and it has been issued on the address of C-150 regarding which the Appellant/Claimant has been seeking allotment from DDA. Further, the Report (Annexure-H) downloaded from internet also shows that the above mentioned Ration Card No. 077004585486 was approved by the FSO on 14.10.2014 and this corroborates that the Appellant/Claimant was having a separate Ration Card issued on the address of Jhuggi No. C-150 regarding which the Appellant/Claimant has been seeking allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant was having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-150 regarding which he is claiming allotment from DDA. Therefore, he fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

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27. The Appellant/Claimant has tendered his Driving License (Annexure-D) as well as the Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Deepika.

28. It is pointed out that Driving License (Annexure-D) of the Appellant/Claimant has been issued on 01.02.2017. It is also pointed out that the abovementioned documents have been issued on the address of Jhuggi No. C-150 regarding which the Appellant/Claimant has been claiming allotment from DDA and further, all the documents also corroborate the statement of the Appellant/Claimant that he along with his family is living in the Jhuggi No. C-150 since long and more specifically on the cut off date of 01.01.2015. This further shows that the Appellant/Claimant is having required documents and he accordingly fulfills the eligibility criteria as per the guidelines issued by DDA.

29. The material placed on file shows that the Appellant/ Claimant was having a valid Voter ID Card & a separate Ration Card, on the cut off date of 01.01.2015, which have been issued on the address of first floor of the Jhuggi No. C-150 regarding which the Appellant/Claimant is claiming allotment from DDA and further his name appears in in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. In addition to that the material placed on file has also proved that the Appellant/Claimant has furnished documents, Annexure-A to Annexure-N, which have been issued on the address of Jhuggi No. C-150 regarding which the Appellant/Claimant has claimed allotment from DDA thereby showing that he along with his family members has been living continuously and more specifically on the cutoff date of 01.01.2015 on the first floor of the Jhuggi No. C-150.

30. In the light of our detailed discussion above, we have no hesitation in holding that the Appellant/ Claimant was having all the requisite documents, including Voter ID card & separate Ration Card, on the cutoff date of 01.01.2015 and further his name appears in in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Thus we have no hesitation in holding that the Appellant/ Claimant fulfills the eligibility criteria on all the parameters as per the guidelines issued by DDA.

31. In view of our findings above, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/ Claimant fulfills the eligibility criteria as per the

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guidelines issued by DDA but the Eligibility Determination Committee has wrongly and illegally rejected his claim. Hence the present appeal No. 666 of 2023 stands allowed, hereby, setting aside the impugned order bearing No. 385/9/5.1/1676 dated 07.11.2022. DDA is hereby directed to make allotment in favour of Appellant/Claimant Deepak Mandal S/o Brajesh Mandal in respect of first floor of the Jhuggi No. C-150, Bhoomiheen Camp.

32. 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.

14.8.2023

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

14/8/2023

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

14/8/2023

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 165 of 2022

Date of Institution: 23.11.2022

Date of Order: 16.08.2023

Present: Appellant/ Claimant Md. Tabrez Alam S/o Rafiq Master

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 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-542, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-542 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate

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allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/18/58.1/782 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 165 of 2022 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 17.07.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-542 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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

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entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Md. Tabrej Alam, has been recorded before us on 17.07.2023 wherein he has stated that his parents, Rafiq & Salia, are having three sons, Nauroz, Tabrej & Afroz and two daughters, Salima & Jamila. Rafiq has died about 2 years ago and his mother Salia is living in her native village in Bhagalpur, Bihar. All the children are married. Salma is married with Shahid and Jamila is married with Shehzad and they are living in their respective matrimonial homes. Afroz is married with Sangma and having three children and they are living on rent in Govindpuri, Delhi. Mohd. Nauraz is married with Shaira and having three children Ahmad Raza, Mohd. Raza & Nujhat. Tabrej (Appellant/Claimant) is married with Ayesha and having three children, Nusrat, Aahat & Hasnain.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. C-542 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that his brother Mohd. Nauroz along with his wife Shaira and children is living on the ground floor of the Jhuggi No. C-542 and regarding that DDA has made allotment in favour of Mohd. Nauroz. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Ayesha and all the three children, Nusrat, Aahad & Hasnain is living on the first floor of the Jhuggi No. C-542. The Appellant/Claimant has claimed allotment from DDA against the first floor of the Jhuggi No. C-542. However, his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 165 of 2022 before the Appellate Authority for redressal. 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.

12. DDA has furnished the survey records along with three video clips of Jhuggi No. C-542. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 17.07.2023 wherein the Appellant/Claimant has stated that the

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first video clip pertains to the ground floor of the Jhuggi No. C-542 in which Shaira W/o Mohd. Nauraz is seen and further, her room & kitchen are also seen. In the other two video clips the Appellant/Claimant Tabrej & his son Aahad is seen on the first floor of Jhuggi No. C-542 and his room & kitchen are also seen. 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-542 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-542 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with his family is using the first floor of the said Jhuggi for residential purposes.

14. 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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 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-N, in support of his claim and prayed that DDA be directed to make allotment in his favour.

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

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does not fulfill the eligibility criteria as per the guidelines issued by DDA as he 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. 385/18/58.1/782 dated 07.11.2022.

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.

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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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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."

20. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

22. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

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23. The Appellant/Claimant has tendered his Voter ID Card No. CXY 1140086 (Annexure-A), Aadhar Card (Annexure-B), Voter List of the year 2013 (Annexure-M) and Voter List of the year 2019 (Annexure-N).

24. It is pointed out that the Voter ID Card No. CXY 1140086 (Annexure-A) has been issued on 25.05.2021, much after the cutoff date of 01.01.2015. However, the name of the Appellant/Claimant appears at Sl. No. 326 in the Voter List of the year 2013 (Annexure-M) and at Sl. No. 301 in the Voter List of the year 2019 (Annexure-N) and the number of his Voter ID Card has been mentioned to be bearing number CXY 1140086. It shows that the original Voter ID Card No. CXY 1140086 must have been issued much earlier to 25.05.2021 as it has been reflected in the Voter list of the year 2013 (Annexure-M) but the original is not placed on file to ascertain the date of its issuance. The duplicate Voter ID Card (Annexure-A) has been issued on 25.05.2021 but the original was in existence even in the year 2013 and that is why it has been reflected in the Voter List of the year 2013 (Annexure-M) and also in the Voter List of the year 2019 (Annexure-N). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2013 & also in the year of survey.

25. 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. C-542 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered two Ration Cards (Annexure-J & Annexure-K). The old joint Ration Card (Annexure-J) has been issued on 09.03.2005 in the name of his father Rafiq and the name of the Appellant/Claimant has been mentioned. The new Ration Card (Annexure-K) has been issued in favour of his sister-in-law, Shaira W/o Mohd. Nauroz, but the name of the Appellant/Claimant has not been mentioned and the date of issuance is also not mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 on the address of his Jhuggi on the first floor of Jhuggi bearing No. C-542 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

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26. The Appellant/Claimant has tendered his Passport (Annexure-C), Passbook of Union Bank (Annexure-D) as well as the Voter ID Card No. NYW 1761063 (Annexure-E), Aadhar Card (Annexure-F) & PAN Card (Annexure-G) of his wife Aisha, Aadhar Cards of his children Nusrat, Hasnain & Aahad Raja (Annexure-G to Annexure-I) and Electricity Bill (Annexure-L).

27. It is pointed out that the Passport (Annexure-C) of the Appellant/Claimant has been issued on 24.04.2021, much after the cutoff date of 01.01.2015. The Passbook of Union Bank (Annexure-D) shows that the Appellant/Claimant had opened the account on 20.01.2020, much after the cutoff date of 01.01.2015. The Voter ID Card (Annexure-E) of his wife Aisha has been issued on 10.02.2014 on the address of Bihar and not on the address of Jhuggi No. C-542, Bhoomiheen Camp, Kalkaji, regarding which the Appellant/Claimant is claiming allotment from DDA and accordingly, this document, is not relevant.

The Electricity Bill (Annexure-L) shows that the connection has been taken in the name of his father Rafiq on 20.06.2008 on the address of Jhuggi No. C-542 thereby showing that the Appellant/Claimant was not having a separate Electricity connection on the first floor of the Jhuggi No. C-542 regarding which he is claiming allotment from DDA.

It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

28. The material placed on file shows 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. C-542 regarding which he is claiming allotment from DDA. The documents, Annexure-A to Annexure-N, 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 separate Ration Card on the cut-off date of 01.01.2015.

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29. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-542 regarding which he is claiming allotment from DDA. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in the voter list of the year's 2014 and also in the year of survey.

30. 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. 385/18/58.1/782 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 229 of 2023

Date of Institution: 23.11.2022

Date of Order: 16.08.2023

Present: Appellant/ Claimant Vijay Barua S/o P.K Barua

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 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-333/A, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-333/A was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate

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allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/67/99.1.1/1542 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 229 of 2022 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 09.08.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-333/A was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified//No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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

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entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Vijay Barua, has been recorded before us on 09.08.2023 wherein he has stated that he is having a double storey Jhuggi No. B-333/A and the family of one Manju Barua W/o Anil was living on the ground floor of the Jhuggi No. A-333/A and regarding that DDA has made allotment in favour of said Manju. But subsequently he has changed his stand and stated that his aunt Sikha Barua W/o Kanan Barua was living on the ground floor of the Jhuggi No. A-333/A and regarding that DDA has made allotment in favour of said Sikha Barua.

9. On this aspect, it is pertinent to point out that as per the DDA record no allotment has been made in favour of Manju Barua W/o Anil against the Jhuggi No. B-333/A but allotment has been made in favour of Sikha Barua W/o Kanan Barua. It is also pointed out that the Appellant/Claimant Vijay has changed his statement after watching the video clips prepared by survey team of DDA and said that Sikha Barua, who is real sister of his mother Sapna is seen getting the survey conducted on the ground floor of the Jhuggi No. B-333/A and DDA has made allotment in favour of his aunt Sikha Barua W/o Kanan Barua. This shows that the Appellant/Claimant has tried to conceal and hide material facts and he has been taking somersault as per his convenience and accordingly, it creates a dent in the story put forward by him.

10. The Appellant/Claimant has stated that he along with his parents was living on the first floor of the Jhuggi No. B-333/A. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. B-333/A but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 229 of 2022 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.

11. DDA has furnished the survey record along with five video clips pertaining to the Jhuggi No. B-333/A. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 09.08.2023 wherein he has stated that two video clips pertain to the ground floor of the Jhuggi No. B-333/A in which one Sikha Barua is seen getting the survey conducted on the ground floor of the Jhuggi No. B-333/A and

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further, she is also seen to be holding a slate in her hand on which "SIKHA B-333/A-G" has been written. The next three video clips pertain to the first floor of the Jhuggi No. B-333/A in which the Appellant/Claimant is seen and further, his room & kitchen are also seen.

12. As already pointed out, the Appellant/Claimant has tried to mislead because initially he has stated that one Manju Barua W/o Anil was living on the ground floor of the Jhuggi No. B-333/A and DDA has made allotment in favour of her but subsequently, he has taken a somersault after watching the video clips and then changed his statement and said that in the video clips his aunt Sikha Barua W/o Kanan Barua is seen and DDA has made allotment in her favour. It is pointed out that the Appellant/Claimant is unmarried and the Jhuggi No. B-3331 belongs to his aunt Sikha Barua W/o Kanan Barua and regarding that DDA has already made allotment in favour of the said Sikha Barua W/o Kanan Barua and it seems that the Appellant/Claimant in collusion of his family members as well as with the said Sikha Barua W/o Kanan Barua has submitted wrong & false claim to grab allotment from DDA by hook or crook.

And by making misrepresentation the Appellant/Claimant had somehow managed to get the survey conducted but he had tried to mislead by stating initially that that one Manju Barua W/o Anil was living on the ground floor of the Jhuggi No. B-333/A and DDA has made allotment in favour of Manju Barua but subsequently, he has taken a somersault after watching the video clips and then changed his statement and said that in the video clips his aunt Sikha Barua W/o Kanan Barua is seen and DDA has made allotment in favour of his aunt Sikha Barua W/o Kanan Barua.

We have no hesitation in holding that the material placed on file shows that the Appellant/Claimant was not living separately & independently on the first floor of the said Jhuggi No. B-333A on the cutoff date of 01.01.2015 and since DDA has already made allotment in favour of Sikha Barua W/o Kanan Barua against Jhuggi No. B-333/A, therefore, the Appellant/Claimant is not entitled to get allotment because two allotments are not permissible under the policy guidelines issued by DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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13. We shall now appraise the material placed on file to determine the eligibility on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 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-N, in support of his claim and prayed that DDA be directed to make allotment in his favour.

15. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut -off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but 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 as he 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. 385/67/99.1.1/1542 dated 07.11.2022.

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.

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

17. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18. As already pointed out above, condition contained in Part–B Para 10 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."

19. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having

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any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

20. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

21. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

22. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C) and PAN Card (Annexure-D).

23. It is pointed out that the Appellant/Claimant has tendered two Voter ID Cards (Annexure-A & Annexure-B) and both are bearing the same number i.e. ARE 2017721. The first Voter ID Card (Annexure-A) has been issued on 14.12.2015, much after the cutoff date of 01.01.2015 and the second Voter ID Card Annexure-B) has also been issued on 10.06.2023, much after the cutoff date of 01.01.2015. This shows that both the Voter ID Cards Annexure-A & Annexure-B) have been issued after the cutoff date of 01.01.2015

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and accordingly, the question of name of the Appellant/Claimant appearing in the Voter List of the years 2012 to 2019 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 and 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, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

24. 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. B-333/A regarding which he is claiming allotment from DDA. The Appellant/Claimant has also tendered three Ration Cards (Annexure-K to Annexure-M). The first Ration Card (Annexure-K) has been issued in favour of his mother Sapna Barua on 22.06.2002 and the name of the Appellant/Claimant has been mentioned therein. The second Ration Card (Annexure-L) has been issued in favour of his mother Sapna Barua on 10.07.2009 and the name of the Appellant/Claimant has been mentioned. The third Ration Card (Annexure-M) has been issued in favour of his mother Sapna on 16.11.2014 and the name of the Appellant/Claimant has been mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 on the address of his Jhuggi on the first floor of Jhuggi bearing No. B-333/A regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

25. The Appellant/Claimant has tendered the Registration Certificate of his motorcycle (Annexure-E), his Driving Licence Annexure-F) as well as Voter ID Card No. CXY 1070580 (Annexure-G), Aadhar Card (Annexure-H) & PAN Card (Annexure-I) of his mother Sapna, Passbook of United Bank of India (Annexure-J) & Passbook of PNB (Annexure-N).

26. It is pointed out that the Registration Certificate of the motorcycle (Annexure-E) has been issued on 02.11.2018, much after the cut off date of 01.01.2015. The Driving Licence (Annexure-F) of the Appellant/Claimant has also been issued on 28.02.2019, much after the cutoff date of 01.01.2015. The Voter ID Card No. CXY 1070580 (Annexure-G) of his mother Sapna shows that it has been issued on 06.03.2002. The Passbook of United Bank

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of India (Annexure-J) shows that his mother Sapna had opened the account on 13.05.1996 on the address of 1137, DDA Flats and accordingly, this document is not relevant because it has not been issued on the address of Jhuggi No. B-333/A regarding which he is claiming allotment from DDA. Further, the Passbook of PNB (Annexure-N) shows that his mother Sapna had opened the account on 29.08.2014. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a 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.

27. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card, on the cutoff date of 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further 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. B-333/A regarding which he is claiming allotment from DDA and further the Appellant/Claimant was not living separately & independently on the first floor of the said Jhuggi No. B-333A on the cutoff date of 01.01.2015 and since DDA has already made allotment in favour of Sikha Barua W/o Kanan Barua against Jhuggi No. B-333/A, therefore, the Appellant/Claimant is not entitled to get allotment because two allotments are not permissible under the policy guidelines issued by DDA. The documents, Annexure-A to Annexure-N, 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.

28. Accordingly, 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 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further 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. B-333/A regarding which he is claiming allotment from DDA and further the Appellant/Claimant was not living separately & independently on the first floor of the said Jhuggi No. B-333A on the cutoff date of 01.01.2015 and since DDA has already made

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allotment in favour of Sikha Barua W/o Kanan Barua against Jhuggi No. B-333/A, therefore, the Appellant/Claimant is not entitled to get allotment because two allotments are not permissible under the policy guidelines issued by DDA. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

29. 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. 385/67/99.1.1/1542 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No:615 of 2023

Date of Institution: 12.12.2022

Date of Order: 16.08.2023

Present: Appellant/ Claimant Ajay Roy S/o Arun Roy

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 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-3, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-3 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/59/11.1/1162 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 615 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 12.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C3 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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

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entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant has been recorded before us on 12.07.2023 wherein he has stated that his parents, Arun Roy & Shilpi, are having one son, Ajay and one daughter Jaishri. Jaishri is unmarried whereas Ajay (Appellant/Claimant) is married with Kanika.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi bearing No. C-3 and it comprises of one room on each floor and an iron ladder is placed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that his parents, Arun Roy & Shilpi, along with their unmarried daughter Jaishri are living on the ground floor of the Jhuggi No. C-3 and regarding that DDA has made allotment in favour of his father Arun Roy. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Kanika is living on the first floor of the Jhuggi No. C-3. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. C-3. But his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 615 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished the survey records along with four video clips of Jhuggi No. C-3. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 12.07.2023 wherein the Appellant/Claimant has stated that the first two video clips pertain to the ground floor of the Jhuggi No. C-3 in which his mother Shilpi is seen and her room & kitchen are also seen. The second video clip pertains to the first floor of the Jhuggi No. C-3 in which the Appellant/Claimant Ajay is seen and further his room & kitchen are also seen. 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-3 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

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13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-3 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with his family is using the first floor of the said Jhuggi for residential purposes.

14. 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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DDA.

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

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut -off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut- off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA as he 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. 385/59/11.1/1162 dated 07.11.2022.

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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.
>
> **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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued

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before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

22. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

23. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1166420 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-H) and Voter List of the year 2019 (Annexure-I).

24. It is pointed out that the Voter ID Card No. ARE 1166420 (Annexure-A) has been issued on 27.10.2008, much prior to the cutoff date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 160 in the Voter List of the year 2014 (Annexure-H) and at Sl. No. 220 in the Voter List of the year 2019 (Annexure-I). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut-

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off date of 01.01.2015 and his name also appears in the voter list of the year's 2014 & also in the year of survey.

25. 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. C-3 regarding which he is claiming allotment from DDA. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor of Jhuggi bearing No. C-3 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

26. The Appellant/Claimant has tendered his Driving Licence (Annexure-D), Electricity Bill (Annexure-E), Passbook of Union Bank of India (Annexure-F) and the Passbook of SBI (Annexure-G).

27. It is pointed out that the Driving Licence (Annexure-D) of the Appellant/Claimant has been issued on 16.03.2009. The Electricity Bill (Annexure-E) shows that the electricity connection has been taken on 26.05.2008 by his father Arun Roy on the ground floor of the Jhuggi No. C-3 thereby showing that the Appellant/Claimant was not having separate electricity connection on the first floor of the Jhuggi No. C-3 regarding which he is claiming allotment from DDA. The Passbook of Union Bank of India (Annexure-F) shows that his father Arun Roy had opened the account on 06.01.2014 & the Passbook of SBI (Annexure-G) shows that the Appellant/Claimant had opened the account on 13.09.2021. 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 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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28. The material placed on file shows 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. C-3 regarding which he is claiming allotment from DDA. The documents, Annexure-A to Annexure-I, 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 separate Ration Card on the cut-off date of 01.01.2015.

29. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-3 regarding which he is claiming allotment from DDA. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in the voter list of the year's 2014 and also in the year of survey.

30. 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. 385/59/11.1/1162 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

31. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: ~~174~~ 714 of 2023

Date of Institution: 13.02.2023

Date of Order: 16.08.2023

Present: Appellant/Claimant Manoj Das S/o Hardhan Das

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-117, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-117 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No.

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385/45/7.1/1100 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 714 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 08.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-117 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Manoj Das, has been recorded before us on 08.08.2023 wherein he has stated that his parents, Hardhan Das & Roma, are having

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two sons; Deepak & Manoj and one daughter Seema. Hardhan Das has expired about six years ago. Deepak is unmarried. Seema is married with Bijay and she is living in her matrimonial home in West Bengal. Manoj (Appellant/Claimant) is married with Kakoli and having one daughter Purvi.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. A-117 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that his mother Roma along with her unmarried son Deepak is living on the ground floor of the Jhuggi No. A-117 and regarding that DDA has made allotment in favour of his mother Roma. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Kakoli and daughter Purvi is living on the first floor of the Jhuggi No. A-117. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. A-117 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 714 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished the survey record along with two video clips pertaining to the Jhuggi No. A-117. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 08.08.2023 wherein he has stated that both the video clips pertain to the ground floor of the Jhuggi No. A-117 in which his mother Roma is seen and her room & kitchen are also seen. Further the Appellant/Claimant is also seen standing on the ground floor near the base of the staircase going to the upper floor but no video clip of the first floor is available.

13. The Appellant/Claimant has further stated that he had requested the survey team to get the videography of his first floor done but the survey team did not pay any heed to his request. However, the statement of the Appellant/Claimant cannot be believed because had he been living separately & independently on the first floor of Jhuggi No. A-117 then he would have certainly made complaint to the higher authority of DDA to ensure that the videography of his first floor Jhuggi is also done. But nothing of this

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sort was done. It seems that there was no construction on the first floor of Jhuggi No. A-117and that is why the Appellant/Claimant had got the survey conducted while standing on the ground floor at the base of the staircase and accordingly the statement of the Appellant/Claimant cannot be believed that the said Jhuggi was a double storey structure and he was living on the first floor of Jhuggi No A-117. Accordingly, we have no hesitation in holding that the material placed on file shows that the Appellant/ Claimant was not living separately & independently on the first floor of Jhuggi No. A-117 on the cutoff date of 01.01.2015 and accordingly he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

14. Now we shall first appraise the material placed on file to determine the eligibility on other parameters 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 he is entitled to claim allotment against the first floor 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-J, 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 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 separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/45/7.1/1100 dated 07.11.2022.

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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.
>
> **<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.

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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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20. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

22. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

23. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1976728 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2015 (Annexure-I) and Voter List of the year 2019 (Annexure-J).

24. The Voter ID Card No. ARE 1976728 (Annexure-A) has been issued on 14.09.2014, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant

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appears at Sl. No. 37 in the Voter List of the year 2015 (Annexure-I) and at Sl. No. 53 in the Voter List of the year 2019 (Annexure-J. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in the Voter List of the year's 2015 & of the year of survey.

25. 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. A-117 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 Jhuggi No. A-117. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

26. The Appellant/Claimant has tendered the Voter ID Card No. ARE 2554772 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Kakoli as well as Electricity Bills (Annexure-G & Annexure-H.

27. It is pointed out that the Voter ID Card No. ARE 2554772 (Annexure-D) of his wife Kakoli has been issued on 23.09.2021, much after the cut off date of 01.01.2015. The Electricity Bill (Annexure-H) shows that the electricity connection has been taken by his father Hardhan on 03.04.2014 & the Electricity Bill (Annexure-G) shows that the connection has been taken by his mother Roma on 14.11.2018 on the ground floor of the Jhuggi No. A-117 thereby showing that the Appellant/Claimant was not having an electricity connection on the first floor of the Jhuggi No. A-117 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a 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.

28. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to

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Annexure-J, 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 separate Ration Card on the cutoff date of 01.01.2015 in spite of the fact that he is claiming allotment against the upper floor.

29. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-117 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, which make separate Ration Card a mandatory document for the upper floor.

30. 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. 385/45/7.1/1100 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

31. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 718 of 2023

Date of Institution: 15.02.2023

Date of Order: 16.08.2023

Present: Appellant/ Claimant Raju Sharma S/o Ramayan Sharma

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 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-298, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-298 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate

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allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/9/17.1/1680 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 718 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 18.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-246 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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

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entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

8. The statement of the Appellant/Claimant, Raju Sharma, has been recorded before us on 18.07.2023 wherein he has stated that his parents, Ramayan Sharma & Talukraj Devi, are having one son, Raju (Appellant/Claimant) and one daughter Urmila. Ramayan Sharma had expired on 09.05.2021. Urmila is married with Sushil and having two children and she is living in her matrimonial home in Sangam Vihar, Delhi. Raju (Appellant/Claimant) is married with Sharmila and they are having two daughters; Shruti & Priya.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. C-298 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that his parents, Ramayan Sharma (up till his death on 09.05.2021) & Talukraj Devi, are living on the ground floor of the Jhuggi No. C-298 and regarding that, DDA has made allotment in favour of Ramayan Sharma and after his death, mutation has been sanctioned in favour of his wife Talukraj Devi. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Sharmila and both the children, Shruti & Priya, is living on the first floor of the Jhuggi No. C-298. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. C-298 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 718 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished the survey records along with three video clips of Jhuggi No. C-298. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 18.07.2023 wherein the Appellant/Claimant has stated that the first video clip pertains to the ground floor of the Jhuggi No. C-298 in which his mother Talukraj Devi is seen and getting the survey conducted on behalf of her husband Ramayan Sharma (since deceased) and further, her room & kitchen are also seen. The other two

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video clips pertain to the first floor in which the Appellant/Claimant is seen on the first floor of Jhuggi No. C-298 and further, his room & kitchen are also seen. 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-298 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-298 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with his family is using the first floor of the said Jhuggi for residential purposes.

14. 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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 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 his claim and prayed that DDA be directed to make allotment in his favour.

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

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does not fulfill the eligibility criteria as per the guidelines issued by DDA as he 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. 385/9/17.1/1680 dated 07.11.2022.

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.

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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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

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DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

22. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and

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whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

23. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1790996 (Annexure-A), Aadhar Card, PAN Card, Voter List of the year 2014 (Annexure-K) and Voter List of the year 2019 (Annexure-L).

24. It is pointed out that the Voter ID Card No. ARE 1790996 (Annexure-A) has been issued on 21.01.2014, much prior to the cutoff date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 1103 in the Voter List of the year 2014 (Annexure-K) and at Sl. No. 1206 in the Voter List of the year 2019 (Annexure-L). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in the Voter List of the year's 2014 & of the year of survey.

25. 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. C-298 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. C-298 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

26. The Appellant/Claimant has tendered his joint Passbook of PNB (Annexure-D), Electricity Bill (Annexure-E) as well as the Voter ID Card No. CXY 1082874 (Annexure-F) & Aadhar Card (Annexure-G) of his wife Sharmila, the Aadhar Cards of his daughters, Shruti (Annexure-H) & Priya (Annexure-I) and the PAN Card (Annexure-J) of his daughter Shruti.

27. It is pointed out that the Passbook of PNB (Annexure-D) shows that the Appellant/Claimant as well as his wife Sharmila had opened the joint account on 26.08.2022, much after the cutoff date 01.01.2015. The Electricity Bill (Annexure-E) shows that the electricity connection has been taken by his father, Ramayan Sharma, on 30.05.2008 on the ground floor of the Jhuggi No. C-298 thereby showing that the Appellant/Claimant was not having a separate electricity connection on the first floor of

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the Jhuggi No. C-298 regarding which he is claiming allotment from DDA. The Voter ID Card No. CXY 1082874 (Annexure-F) of Sharmila shows that it has been issued on 27.11.2005, 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 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA

28. The material placed on file shows 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. C-298 regarding which he is claiming allotment from DDA. The documents, Annexure-A to Annexure-L, 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 separate Ration Card on the cut-off date of 01.01.2015.

29. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-298 regarding which he is claiming allotment from DDA. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and his name also appears in the voter list of the year's 2014 and also in the year of survey.

30. 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. 385/9/17.1/1680 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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31. 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.

16/8/2023

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

16/8/2023

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

16/8/2023

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 93 of 2022

Date of Institution: 21.11.2022

Date of Order: 18.08.2023

Present: Appellant/Claimant Sunil Das S/o Shakti Das

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-180, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-180 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No.

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385/7/69.1/1635 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 93 of 2022 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 10.08.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-180 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant, Sunil Das, has been recorded before us on 10.08.2023 wherein he has stated that his parents, Shakti Pada Das & Jamuna, are having four sons, Subrato, Sanot, Sunil & Kashi and one daughter Soibha. All the children are married. Soibha is married with Kanhai and she is living in her matrimonial home in Bhoomiheen Camp, Kalkaji. Subrato is married with Ambika and he is living on rent in Tughlaqabad, Delhi. Kashi is married with Sangeeta and having one son Dhruv. Sanot is married with Sumitra and having two children, Rajat & Rajiv. Sunil (Appellant/Claimant) is married with Shipra and having two children, Supriya & Manav.

9. The Appellant/Claimant has stated that his family is having four storey Jhuggi No. B-180 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali, which is used for going from the ground floor to the upper floor, thereafter, an iron ladder is placed on the first floor for going to the second floor and thereafter, another iron ladder is placed on the second floor for going to third floor.

10. The Appellant/Claimant has stated that his parents, Shakti Pada Das & Jamuna, are living on the ground floor of the Jhuggi No. B-180 and regarding that DDA has made allotment in favour of his mother Jamuna. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that his brother Sanot along with his wife Sumitra and both the children, Rajat & Rajiv is living on the third floor of the Jhuggi No. B-180 and regarding that Sumitra has sought allotment from DDA but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the Appeal No. 350 of 2023 before the Appellate Authority for redressal.

12. The Appellant/Claimant has stated that his brother Kashi Ram along with his wife Sangeeta and son Dhruv is living on second floor of Jhuggi No. B-180 regarding that Kashi has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the Appeal No. 351 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

13. The Appellant/Claimant has stated that he along with his wife Shipra and both the children Supriya & Manav is living on the first floor of the Jhuggi No. B-180. The

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Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. B-180 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 93 of 2022 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.

14. It is pointed out that all three appeals bearing Appeal No. 93 of 2022, Appeal No. 350 of 2023 and 351 of 2023 shall be decided separately on their individual merits.

15. DDA has furnished the survey record along with seventeen video clips pertaining to Jhuggi No. B-180. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 10.08.2023 wherein the Appellant/Claimant has stated that the five video clips pertain to the ground floor of Jhuggi No. B-180 in which his mother Jamuna is seen and further, her room & kitchen are also seen. The next four video clips pertain to the first floor of the Jhuggi No. B-180 in which Shipra W/o Sunil (Appellant/Claimant of Appeal No. 93 of 2022) is seen and further the room & kitchen of Sunil are also seen and an iron ladder, which is placed on the first floor and used for going to the second floor, is also seen. The next three video clips pertain to the second floor of Jhuggi No. B-180 in which Kashi (Appellant/Claimant of Appeal No. 351 of 2023) is seen and further his room & kitchen are also seen. The next five video clips pertain to the third floor of the Jhuggi No. B-180 in which Sumitra (Appellant/Claimant of Appeal No. 350 of 2023) is seen and further, her room & kitchen are also seen.

16. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the four storey pucca Jhuggi No. B-180 being used for residential purposes, was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and his parents, Shakti Pada Das & Jamuna, were living on the ground floor whereas the family of Sunil (Appellant/Claimant of Appeal No. 93 of 2022) was living on the first floor and the family of Kashi (Appellant/Claimant of Appeal No. 351 of 2023) was living on the second floor and further the family of Sumitra (Appellant/Claimant of Appeal No. 350 of 2023) was living on the third floor.

17. Accordingly, we have no hesitation in holding that the Jhuggi No. B-180 in Bhoomiheen Camp is a pucca four storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and it was used for residential purposes and further Jamuna

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(mother) was living on the ground floor as well as the family of family of Sunil (Appellant/Claimant of Appeal No. 93 of 2022) was living on the first floor whereas the family of Kashi (Appellant/Claimant of Appeal No. 351 of 2023) was living on the second floor and further the family of Sumitra (Appellant/Claimant of Appeal No. 350 of 2023) was living on the third floor.

18. Now we shall first appraise the material placed on file to determine the eligibility on other parameters 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 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 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 his claim and prayed that DDA be directed to make allotment in his favour

20. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card 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 as he 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. 385/7/69.1/1635 dated 07.11.2022.

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

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

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

22. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

23. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have

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

GIST OF THE POLICY

25. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

26. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

27. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1655788 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-M) and Voter List of the year 2019 (Annexure-N).

28. It is pointed out that the Voter ID Card No. ARE 1655788 (Annexure-A) has been issued on 26.04.2013, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 102 in the Voter List of the year 2014 (Annexure-M) and at Sl. No. 177 in the Voter List of the year 2019 (Annexure-N). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 & also in the year of survey.

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29. 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 the first floor of the Jhuggi No. B-180 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered two Ration Cards (Annexure-I & Annexure-J). The first Ration Card (Annexure-I) has been issued in favour of his father Shakti Pada Das on 17.04.2010 and the name of the Appellant/Claimant is mentioned. The second Ration Card (Annexure-J) has been issued in favour of his mother Jamuna and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. 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 Jhuggi No. B-180 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

30. The Appellant/Claimant has tendered Voter ID Card No. ARE 1913101 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Shipra Mandal, the Electricity Bill (Annexure-G), Driving License (Annexure-H) and Aadhar Cards of his children, Supriya & Manav, (Annexure-K & Annexure-L).

31. It is pointed out that the Voter ID Card No. ARE 1913101 (Annexure-D) of his wife Shirpra Mandal has been issued on 09.11.2015. The Electricity Bill (Annexure-G) shows that the electricity connection has been taken by his father Shakti Pada Das on 12.06.2008 on the ground floor of the Jhuggi No. B-180, thereby, showing that the Appellant/Claimant was not having electricity connection on the first floor of the Jhuggi No. B-180 regarding which he is claiming allotment from DDA. The Driving License (Annexure-H) of the Appellant/Claimant has been issued on 30.03.2013. 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 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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32. The material placed on file shows 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. B-180 regarding which he is claiming allotment from DDA. The documents, Annexure-A to Annexure-I, 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 separate Ration Card on the cut-off date of 01.01.2015.

33. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-180 regarding which he is claiming allotment from DDA. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in the voter list of the year's 2014 and also in the year of survey.

34. 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. 385/7/69.1/1635 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

35. 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.

18/8/2023

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

18/8/2023

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

18/8/2023

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 350 of 2023

Date of Institution: 28.11.2022

Date of Order: 18.08.2023

Present: Appellant/Claimant Sumitra Das W/o Sanot Kumar Das D/o Chiyari Gayan

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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. B-180, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-180 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No.

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385/7/70.2/1636 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 350 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 10.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-180 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on 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 third floor as per the policy guidelines issued by DDA. The statement of the Appellant/Claimant, Sumitra Das, has been recorded before us on 10.08.2023 wherein she has stated that her in-laws, Shakti

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Pada Das & Jamuna, are having four sons, Subrato, Sanot, Sunil & Kashi and one daughter Soibha. All the children are married. Soibha is married with Kanhai and she is living in her matrimonial home in Bhoomiheen Camp, Kalkaji. Subrato is married with Ambika and he is living on rent in Tughlaqabad, Delhi. Kashi is married with Sangeeta and having one son Dhruv. Sunil is married with Shipra and having two children, Supriya & Manav. Sanot is married with Sumitra (Appellant/Claimant) and having two children, Rajat & Rajiv.

8. The Appellant/Claimant has stated that his family is having a four storey Jhuggi No. B-180 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali, which is used for going from the ground floor to the upper floor, thereafter, an iron ladder is placed on the first floor for going to the second floor and thereafter, another iron ladder is placed on the second floor for going to third floor.

9. The Appellant/Claimant has stated that her in-laws, Shakti Pada Das & Jamuna, are living on the ground floor of the Jhuggi No. B-180 and regarding that DDA has made allotment in favour of her mother-in-law Jamuna. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that Sunil along with his wife Shipra and both the children, Supriya & Manav, is living on the first floor of the Jhuggi No. B-180 and regarding that Sunil has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the Appeal No. 93 of 2022 before the Appellate Authority for redressal. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that Kashi Ram along with his wife Sangeeta and son Dhruv is living on second floor of Jhuggi No. B-180 regarding that Kashi has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the Appeal No. 351 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that she along with her husband Sanot Das and both the children, Rajat & Rajiv, is living on the third floor of the Jhuggi No. B-180. The Appellant/Claimant has sought allotment from DDA against the third floor of the Jhuggi No. B-180 but her claim has been rejected by the Eligibility Determination Committee

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and aggrieved by the same she has filed the present Appeal No. 350 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-J, in support of her claim and prayed that DDA be directed to make allotment in her favour.

13. It is pointed out that all three appeals bearing Appeal No. 93 of 2022, Appeal No. 350 of 2023 and 351 of 2023 shall we decided separately on their individual merits.

14. DDA has furnished the survey record along with seventeen video clips pertaining to Jhuggi No. B-180. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 10.08.2023 wherein the Appellant/Claimant has stated that the five video clips pertain to the ground floor of Jhuggi No. B-180 in which her mother-in-law Jamuna is seen and further, her room & kitchen are also seen. The next four video clips pertain to the first floor of the Jhuggi No. B-180 in which Shipra W/o Sunil (Appellant/Claimant of Appeal No. 93 of 2022) is seen and further the room & kitchen of Sunil are also seen and an iron ladder, which is placed on the first floor and used for going to the second floor is also seen. The next three video clips pertain to the second floor of Jhuggi No. B-180 in which Kashi (Appellant/Claimant of Appeal No. 351 of 2023) is seen and further his room & kitchen are also seen. The next five video clips pertain to the third floor of the Jhuggi No. B-180 in which Sumitra (Appellant/Claimant of Appeal No. 350 of 2023) is seen and further, her room & kitchen are also seen.

15. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the four storey pucca Jhuggi No. B-180 being used for residential purposes, was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and her in-laws, Shakti Pada Das & Jamuna, were living on the ground floor whereas the family of Sunil (Appellant/Claimant of Appeal No. 93 of 2022) was living on the first floor and the family of Kashi (Appellant/Claimant of Appeal No. 351 of 2023) was living on the second floor and further the family of Sumitra (Appellant/Claimant of Appeal No. 350 of 2023) was living on the third floor.

16. Accordingly, we have no hesitation in holding that the Jhuggi No. B-180 in Bhoomiheen Camp is a pucca four storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and it was used for residential purposes and further Jamuna (mother-in-law) was living on the ground floor as well as the family of family of Sunil

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(Appellant/Claimant of Appeal No. 93 of 2022) was living on the first floor whereas the family of Kashi (Appellant/Claimant of Appeal No. 351 of 2023) was living on the second floor and further the family of Sumitra (Appellant/Claimant of Appeal No. 350 of 2023) was living on the third floor.

17. Now we shall first appraise the material placed on file to determine the eligibility on other parameters 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 third floor as per the policy guidelines issued by DDA.

18. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-J, 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. 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 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 he 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,

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there is no illegality in the impugned rejection order bearing No. 385/7/70.2/1636 dated 07.11.2022.

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 is 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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

21. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

22. It is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby

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allowing alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part–B Para 10 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. 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.

24. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card 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: -

"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.

25. 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

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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 with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

26. 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) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

27. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015

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GIST OF THE POLICY

28. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

29. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the third floor, is entitled to seek allotment from DDA and further 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.

30. 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 claimed allotment against the third floor, which is not included in the definition of upper floor under Part–B Para 10 of the policy.

31. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the third floor as per the policy guidelines issued by DDA.

32. The Appellant/Claimant has tendered her Voter ID Card No. ARE 1873487 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2015 (Annexure-I) and Voter List of the year 2019 (Annexure-J).

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33. It is pointed out that the Voter ID Card No. ARE 1873487 (Annexure-A) has been issued on 26.02.2014, much prior to the cutoff date 01.01.2015 and the name of the Appellant/Claimant appears at Sl. No. 1053 in the Voter List of the year 2015(Annexure-I) and at Sl. No. 1126 in the Voter List of the year 2019 (Annexure-J). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 & also in the year of survey.

34. 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. B-180 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered two Ration Cards (Annexure-F & Annexure-G). The first Ration Card (Annexure-F) has been issued in favour of his father Shakti Pada Das on 17.04.2010 and the name of the Appellant/Claimant is mentioned. The second Ration Card (Annexure-G) has been issued in favour of his mother Jamuna on 26.12.20414 and the name of the Appellant/Claimant is mentioned. 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 Jhuggi No. B-180 regarding which she 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

35. The Appellant/Claimant has tendered Aadhar Card (Annexure-D) of her husband, the Passbook of Union Bank of India (Annexure-E) and Electricity Bill (Annexure-H).

36. It is pointed out that the Passbook of Union Bank of India (Annexure-E) shows that the Appellant/Claimant had opened the account on 18.06.2105, much after the cutoff date 01.01.2015. The Electricity Bill (Annexure-H) shows that the electricity connection has been taken by the Appellant/Claimant on 11.02.2017, 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 separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the second floor.

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37. The material placed on file shows that the Appellant/ Claimant has claimed allotment against the third floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy and further the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-J, 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. Accordingly, we have no hesitation in holding that the Jhuggi on the third floor bearing No. B-180 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

38. 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. 385/7/70.2/1636 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

39. 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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(Rambir 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 430 of 2023

Date of Institution: 29.11.2022

Date of Order: 23.08.2023

Present: Appellant/Claimant Pawan Das S/o Chhotu Das

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-394/1, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-394/1 was found to exist on the ground floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/67/083.G/1534 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved

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by the same, the present Appeal No. 430 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 02.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-394/1 was found to exist on the ground floor but he had failed to submit required documents, i.e., Voter ID Card on the cutoff date of 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 07.11.2022 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 a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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-394/1 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Pawan Das, has been recorded before us on 02.08.2023 wherein he has stated that his parents, Chhotu Das & Parmeshwari, are

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having three sons; Pawan, Sakal & Lakhan Das and one daughter, Neelam. Chhatu Das has expired in the year 1980 and Parmeshwari has expired in the year 2016. All the children are married. Neelam is married with Shiv Shankar and she is living in her matrimonial home in Jaipur. Lakhan is married with Ruma and having three children and he is living in Tughalakabad, Delhi. Sakal is married with Manju and having six children but Sakal has expired in the year 2007 and thereafter Manju along with her children is living in Madhubani, Bihar. Pawan (Appellant/Claimant) is married with Mamta and having three sons; Nitish, Nitin & Raghav.

9. The Appellant/Claimant has stated that he is having a double storey Jhuggi bearing No. B-394/1 and it comprises of one room on each floor and an iron ladder is placed inside the room for going to the upper floor and accordingly, both the floors are part and parcel of the same dwelling unit. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi No. B-394/1 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 430 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-I, in support of his claim and prayed that DDA be directed to make allotment in his favour.

10. DDA has furnished the survey records along with four video clip of the Jhuggi No. B-394/1. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 02.08.2023 wherein the Appellant/Claimant has stated that all the four videos pertain to the ground floor in which the Appellant/Claimant is seen and his room & kitchen are also seen. The video clip of the first floor is not available. It is pointed out that if Jhuggi No. B-394/1 is a double storey Jhuggi then in that eventuality the Appellant/Claimant would have insisted for making video clip of the first floor also but nothing of this sort was done. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a single storey Jhuggi No. B-394/1 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was using the said Jhuggi for residential purposes.

11. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. B-394/1 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with his family is using the said Jhuggi for residential purposes.

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12. 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 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-394/1 as per the policy guidelines issued by DDA.

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

14. 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."

15. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and 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.

16. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further 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

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entitled to claim allotment against the Jhuggi No. B-394/1, Bhoomiheen Camp as per the policy guidelines issued by DDA.

17. The Appellant/Claimant has tendered his Voter ID Card No. SJL 0557496 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter Slip dated 22.11.2022 (Annexure-I).

18. It is pointed out that the Voter ID Card No. SJL 0557496 (Annexure-A) has been issued on 19.12.2018, much after the cut off date of 01.01.2015 and accordingly, the question of his name appearing in the Voter Lists of the years 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 name of the Appellant/Claimant appears in the Voter Slip dated 22.11.2022 (Annexure-I) in which the number of his Voter ID Card is reflected to be SJL 0557496. But the fact remains that the Appellant/Claimant was not having a Voter ID Card, on the cutoff date of 01.01.2015 and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

19. The Appellant/Claimant has tendered his Driving Licence (Annexure-D), Passbook of Indian Bank (Annexure-E), Aadhar Card of his wife Mamta (Annexure-F), Ration Card (Annexure-G) and Electricity Bill (Annexure-H).

20. It is pointed out that the Driving Licence (Annexure-D) of the Appellant/Claimant has been issued on 17.01.2013. The Passbook of Indian Bank (Annexure-E) shows that the Appellant/Claimant has opened the account on 15.12.2010. Ration Card (Annexure-G) shows that it has been issued in favour of the Appellant/Claimant on 03.01.1998. The Electricity Bill (Annexure-H) shows that the Appellant/Claimant had taken the electricity connection on 07.03.2017. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these document does 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

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the cut- off date of 01.01.2015 and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

21. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents, Annexure-A to Annexure-I, 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.

22. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a Voter ID Card, on the cutoff date of 01.01.2015 and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

23. 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. 385/67/083.G/1534 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

24. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 553 of 2023

Date of Institution: 06.12.2022

Date of Order: 23.08.2023

Present: Appellant/Claimant Anup Pandey S/o Ram Surat Pandey

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-267, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant was not found to be living separately & independently in Jhuggi No. A-52 but he was living jointly with his parents in Jhuggi No. A-52 and regarding that DDA has made allotment in favour of his mother Indra Devi and accordingly, two allotments against the same dwelling unit are not permissible as per the policy/guidelines issued by DDA but the Appellant/Claimant had tried to suppress the

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material facts to claim double allotment against Jhuggi bearing No. A-52. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/11/9.G-A/734 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 533 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 27.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, 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 records, the Appellant/Claimant was found to be not living separately & independently in Jhuggi No. A-52 and regarding that Jhuggi DDA has already made allotment in favour of his mother Indra Devi and accordingly, two allotments against the same dwelling unit are not permissible as per the policy/guidelines issued by DDA. 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"Two allotment in respect of one Jhuggi / unit are not permissible as per policy guidelines"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 is claiming double allotment and whether she 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

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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 whether he is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Anup, has been recorded before us on 27.07.2023 wherein he has stated that his parents, Ram Surat & Indra, are having two sons, Anup & Manish and three daughters, Poonam, Rachna & Neelam. Ram Surat had expired about eight years ago. All the children except Maish are married. Poonam is married with Vinay and she is living in her matrimonial home in Sangam Vihar, Delhi. Neelam is married with Manish and having three children. Rachna is married with Anil and having one child. Anup (Appellant/Claimant) is married with Sandhya and having two children Anushka & Ladoo.

8. The Appellant/Claimant has stated that his parents, Ram Surat & Indra, are having a triple storey Jhuggi bearing No. A-52 and it comprises of two interconnected rooms on the ground floor and two rooms on the first floor and further, two rooms on the second floor and a pucca staircase has been constructed outside in the gali for going to the upper floor. The entire family is having a joint kitchen on the ground floor with their mother Indra.

9. The Appellant/Claimant has stated that his mother Indra is living on the ground floor of the Jhuggi No. A-52 and regarding that DDA has made allotment in favour of his mother Indra. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that his unmarried brother Manish is living in one of the rooms on the second floor but he has not claimed allotment from DDA against the said Jhuggi. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that his sister Neelam along with her husband Manish and all the three children is living in one of the rooms on the first floor of the Jhuggi No. A-52 and regarding that Neelam has sought allotment from DDA but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the Appeal No. 579 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

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12. The Appellant/Claimant has stated that his sister Rachna along with her husband Anil & son is living in the second room on the first floor of the Jhuggi No. A-52 and regarding that Rachna has sought allotment from DDA but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the Appeal No. 580 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

13. The Appellant/Claimant has stated that he along with his wife Sandhya and both the children is living in the second room on the second floor of the Jhuggi No. A-52 and regarding that he has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, Anup has filed the present Appeal No. 553 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

14. It is pointed out that all the three appeals bearing Appeal No. 553 of 2023, Appeal No. 579 of 2023 and Appeal No. 580 of 2023 shall be decided separately on their individual merits.

15. DDA has furnished the survey records along with one video clip of Jhuggi No. A-52. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 27.07.2023 wherein the Appellant/Claimant has stated that the video clip pertains to the ground floor of the Jhuggi No. A-52 in which Manish is seen getting the survey conducted on behalf of his mother Indra and further, two interconnected rooms & kitchen on the ground floor are also seen. The Appellant/Claimant has stated that he has not got the videography conducted on the second floor but only photographs were taken. The photographs placed on file show that the Appellant/Claimant is standing out side the Jhuggi and this is not sufficient to draw inference that he was living separately & independently in one of the rooms on the second floor of Jhuggi No. A-52. Similarly no video was got prepared by Neelam & Rachna of the first floor.

16. Had Anup (Appellant/Claimant of Appeal No. 553 of 2023) been living separately & independently in one of the rooms on the second floor and similarly had Neelam (Appellant/Claimant of Appeal No. 579 of 2023) & Rachna (Appellant/Claimant of Appeal No. 580 of 2023) living separately & independently on the first floor then they

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would have certainly got the videos prepared of their respective Jhuggis but nothing of this sort was done by them.

17. The admission of the Appellant/Claimant is a clincher piece of evidence because he has specifically stated that entire family was having a joint kitchen with their mother Indra. This shows that Anup (Appellant/Claimant of Appeal No. 553 of 2023), Neelam (Appellant/Claimant of Appeal No. 579 of 2023) & Rachna (Appellant/Claimant of Appeal No. 580 of 2023) were living jointly with their mother Indra in Jhuggi No. A-52 and regarding that DDA has made allotment in favour of his mother Indra Devi and accordingly, two allotments against the same dwelling unit are not permissible as per the policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that Anup (Appellant/Claimant of Appeal No. 553 of 2023), Neelam (Appellant/Claimant of Appeal No. 579 of 2023) & Rachna (Appellant/Claimant of Appeal No. 580 of 2023) do not fulfill the eligibility criteria as per the guidelines issued by DDA.

18. Now we shall first appraise the material placed on file to determine the eligibility on other parameters 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 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 second floor 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-K, in support of his claim and prayed that DDA be directed to make allotment in his favour against the second floor of the Jhuggi No. A-267.

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

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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 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 he has claimed allotment against the second floor, which is not included in the definition of upper floor and further he 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. 385/11/9.G-A/734 dated 07.11.2022.

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

> **"Part-B**
>
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on 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 is being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

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

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

22. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

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DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

23. It is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part–B Para 10 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. 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.

25. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card 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: -

"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

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(2) words in the singular shall include the plural, and vice versa.

26. 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 with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

27. 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) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

28. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against

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upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015

GIST OF THE POLICY

29. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

30. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further 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.

31. 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 he 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.

32. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and

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whether he is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

33. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1132976 (Annexure-A), Aadhar Card (Annexure-B), Voter List of the year 2012 (Annexure-G), Voter List of the year 2013 (Annexure-H), Voter List of the year 2014 (Annexure-I), Voter List of the year 2015 (Annexure-J) and Voter List of the year 2019 (Annexure-K).

34. It is pointed out that the Voter ID Card No. ARE 11329476 (Annexure-A) has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 260 in the Voter List of the year 2012 (Annexure-G), at Sl. No. 260 in the Voter List of the year 2013 (Annexure-H), at Sl. No. 280 in the Voter List of the year 2014 (Annexure-I), at Sl. No. 336 in the Voter List of the year 2015 (Annexure-J) and at Sl. No. 400 in the Voter List of the year 2019 (Annexure-K). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

35. 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 the second floor of the Jhuggi No. A-52 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the Ration Cards (Annexure-E & Annexure-F). The first Ration Card (Annexure-E) has been issued on 19.09.2008 in the name of his father Ram Surat and the name of the Appellant/Claimant has been mentioned. The second Ration Card (Annexure-F) has been issued in favour of his mother Indra and the name of the Appellant/Claimant is mentioned but the date of issuance has not been mentioned therein. 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 Jhuggi No. A-52. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

36. The Appellant/Claimant has tendered Aadhar Card (Annexure-C) of his daughter Anushka, Electricity Bill (Annexure-D).

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37. The Electricity Bill (Annexure-D) shows that the electricity connection has been taken by his father Ram Surat on 14.06.2008 on the address of ground floor of the Jhuggi No. A-52 thereby showing that the Appellant/Claimant was not having a separate electricity connection on the address of the second floor regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

38. The material placed on file shows that the Appellant/ Claimant has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy and further the Appellant/Claimant was not living separately & independently on the second floor of Jhuggi No. A-52 but he was living jointly with his mother Indra in Jhuggi No. A-52 and regarding that DDA has made allotment in favour of his mother Indra Devi and accordingly, two allotments against the same dwelling unit are not permissible as per the policy/guidelines issued by DDA and further the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of the second floor of the Jhuggi No. A-52 regarding which he is claiming allotment from DDA. The documents, Annexure-A to Annexure-K, 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.

39. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. A-52 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further the Appellant/Claimant was not living separately & independently on the second floor of Jhuggi No. A-52 but he was living jointly with his mother Indra in Jhuggi No. A-52 and regarding that DDA has made allotment in favour of her mother Indra Devi and accordingly, two allotments against the same dwelling unit are not permissible as per the policy/guidelines issued by DDA and further the Appellant/

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BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 579 of 2023

Date of Institution: 07.12.2022

Date of Order: 23.08.2023

Present: Appellant/Claimant Neelam Devi W/o Manish D/o Ram Surat Pandey

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-52, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-52 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/11/9.4/736 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 579 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 27.07.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-52 was found to exist but she had failed to submit required documents on the cutoff date of 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 07.11.2022 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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on 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 as per the policy guidelines issued by DD.

8. The statement of the Appellant/Claimant, Neelam, has been recorded before us on 27.07.2023 wherein she has stated that her parents, Ram Surat & Indra, are having two sons, Anup & Manish and three daughters, Poonam, Rachna & Neelam. Ram Surat had

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expired about eight years ago. All the children except Maish are married. Poonam is married with Vinay and she is living in her matrimonial home in Sangam Vihar, Delhi. Anup is married with Sandhya and having two children, Anushka & Lado. Rachna is married with Anil and having one child. Neelam (Appellant/Claimant) is married with Manish and having three children.

9. The Appellant/Claimant has stated that her parents, Ram Surat & Indra, are having a triple storey Jhuggi bearing No. A-52 and it comprises of two interconnected rooms on the ground floor and two rooms on the first floor and further, two rooms on the second floor and a pucca staircase has been constructed outside in the gali for going to the upper floor. The entire family is having a joint kitchen on the ground floor with their mother Indra.

10. The Appellant/Claimant has stated that her mother Indra is living on the ground floor of the Jhuggi No. A-52 and regarding that DDA has made allotment in favour of her mother Indra. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that her unmarried brother Manish is living in one of the rooms on the second floor but he has not claimed allotment from DDA against the said Jhuggi. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that her brother Anup along with his wife Sandhya and both the children is living in the second room on the second floor of the Jhuggi No. A-52 and regarding that Anup has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, Anup has filed the Appeal No. 553 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

13. The Appellant/Claimant has stated that her sister Rachna along with her husband Anil & son is living in one of the rooms on the first floor of the Jhuggi No. A-52 and regarding that Rachna has sought allotment from DDA but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the Appeal No. 580 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

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14. The Appellant/Claimant has stated that she along with her family is living in the second room on the first floor of the Jhuggi No. A-52. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-52 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the Appeal No. 579 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-H, in support of her claim and prayed that DDA be directed to make allotment in her favour.

15. It is pointed out that all the three appeals bearing Appeal No. 553 of 2023, Appeal No. 579 of 2023 and Appeal No. 580 of 2023 shall be decided separately on their individual merits.

16. DDA has furnished the survey records along with one video clip of Jhuggi No. A-52. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 27.07.2023 wherein the Appellant/Claimant has stated that the video clip pertains to the ground floor of the Jhuggi No. A-52 in which Manish is seen getting the survey conducted on behalf of his mother Indra and further, two interconnected rooms & kitchen on the ground floor are also seen. The Appellant/Claimant has stated that she has not got the videography conducted on the upper floor but only photographs were taken. The photographs placed on file show that the Appellant/Claimant is standing out side the Jhuggi and this is not sufficient to draw inference that she was living separately & independently in one of the rooms on the first floor of Jhuggi No. A-52. Similarly no video was got prepared by Rachna of the first floor and by Anup of the second floor.

17. Had Anup (Appellant/Claimant of Appeal No. 553 of 2023) been living separately & independently in one of the rooms on the second floor and similarly had Neelam (Appellant/Claimant of Appeal No. 579 of 2023) & Rachna (Appellant/Claimant of Appeal No. 580 of 2023) living separately & independently on the first floor then they would have certainly got the videos prepared of their respective Jhuggis but nothing of this sort was done by them.

18. The admission of the Appellant/Claimant is a clincher piece of evidence because she has specifically stated that entire family was having a joint kitchen with their mother

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Indra. This shows that Anup (Appellant/Claimant of Appeal No. 553 of 2023), Neelam (Appellant/Claimant of Appeal No. 579 of 2023) & Rachna (Appellant/Claimant of Appeal No. 580 of 2023) were living jointly with their mother Indra in Jhuggi No. A-52 and regarding that DDA has made allotment in favour of his mother Indra Devi and accordingly, two allotments against the same dwelling unit are not permissible as per the policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that Anup (Appellant/Claimant of Appeal No. 553 of 2023), Neelam (Appellant/Claimant of Appeal No. 579 of 2023) & Rachna (Appellant/Claimant of Appeal No. 580 of 2023) do not fulfill the eligibility criteria as per the guidelines issued by DDA.

19. 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 first floor as per the policy guidelines issued by DDA.

20. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because 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. 385/11/9.4/736 dated 07.11.2022.

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

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"Part-B

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

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

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

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- 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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

22. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

23. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

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GIST OF THE POLICY

25. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

26. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

27. The Appellant/Claimant has tendered her Voter ID Card No. ARE 1132950 (Annexure-A), Voter List of the year 2012 (Annexure-B), Voter List of the year 2013 (Annexure-C), Voter List of the year 2014 (Annexure-D), Voter List of the year 2015 (Annexure-E) and Voter List of the year 2019 (Annexure-F).

28. It is pointed out that the Voter ID Card No. ARE 1132950 (Annexure-A) has been issued on 21.09.2020, much after the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 258 in the Voter List of the year 2012 (Annexure-B), at Sl. No. 258 in the Voter List of the year 2013 (Annexure-C), at Sl. No. 278 in the Voter List of the year 2014 (Annexure-D), at Sl. No. 334 in the Voter List of the year 2015 (Annexure-E) and at Sl. No. 398 in the Voter List of the year 2019 (Annexure-F). It is also pointed out that in the Voter Lists, Annexure-B to Annexure-F, the number of his Voter ID Card has been mentioned to be bearing number ARE 1132950. It shows that the original Voter ID Card No. ARE 1132950 must have been issued much earlier to 21.09.2020 as it has been reflected in the Voter List of the year

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2012 (Annexure-B), in the Voter List of the year 2013 (Annexure-C), in the Voter List of the year 2014 (Annexure-D), in the Voter List of the year 2015 (Annexure-E) and in the Voter List of the year 2019 (Annexure-F) but the original is not placed on file to ascertain the date of its issuance. The Voter ID Card (Annexure-A) has been issued on 21.09.2020 but the original was in existence even in the years 2012 to 2019 and that is why it has been reflected in the Voter Lists, Annexure-B to Annexure-F. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and her name also appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

29. The Appellant/Claimant has admitted that she 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. A-52 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered the Ration Cards (Annexure-G & Annexure-H). The first Ration Card (Annexure-G) has been issued on 19.09.2008 in the name of her father Ram Surat and the name of the Appellant/Claimant has been mentioned. The new Ration Card (Annexure-H) has been issued in favour of her mother Indra and the name of the Appellant/Claimant is mentioned but the date of issuance has not been mentioned therein. 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 Jhuggi No. A-52. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

30. The material placed on file shows that the Appellant/Claimant was not living separately & independently on the first floor of Jhuggi No. A-52 but she was living jointly with their mother Indra in Jhuggi No. A-52 and regarding that DDA has made allotment in favour of her mother Indra Devi and accordingly, two allotments against the same dwelling unit are not permissible as per the policy/guidelines issued by DDA and further the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-52 regarding which she is claiming allotment from DDA. The documents, Annexure-A to Annexure-H, 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

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per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 in spite of the fact that she is claiming allotment against the upper floor and she had tried to suppress the material facts to claim double allotment.

31. Accordingly, we have no hesitation in holding that the Appellant/Claimant was not living separately & independently on the first floor of Jhuggi No. A-52 but she was living jointly with their mother Indra in Jhuggi No. A-52 and regarding that DDA has made allotment in favour of her mother Indra Devi and accordingly, two allotments against the same dwelling unit are not permissible as per the policy/guidelines issued by DDA and further the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-52 regarding which she is claiming allotment from DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

32. 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. 385/11/9.4/736 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

33. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 580 of 2023

Date of Institution: 07.12.2022

Date of Order: 23.08.2023

Present: Appellant/Claimant Rachna Devi W/o Anil D/o Ram Surat Pandey

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-52, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant was not found to be living separately & independently in Jhuggi No. A-52 but in fact she was living jointly with parents in Jhuggi No. A-52 and regarding that DDA has made allotment in favour of her mother Indra Devi and accordingly, two allotments against the same dwelling unit are not permissible as per the policy/guidelines issued by DDA but the Appellant/Claimant had tried to suppress the

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material facts to claim double allotment against Jhuggi bearing No. A-52. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/11/9.G-B/737 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 580 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 27.07.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, 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 records, the Appellant/Claimant was found to be not living separately & independently in Jhuggi No. A-52 and regarding that Jhuggi DDA has already made allotment in favour of her mother Indra Devi and accordingly, two allotments against the same dwelling unit are not permissible as per the policy/guidelines issued by DDA. 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"Two allotment in respect of one Jhuggi / unit are not permissible as per policy guidelines"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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 is claiming double allotment and whether she 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

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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 whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Rachna, has been recorded before us on 27.07.2023 wherein she has stated that her parents, Ram Surat & Indra, are having two sons, Anup & Manish and three daughters, Poonam, Rachna & Neelam. Ram Surat had expired about eight years ago. All the children except Maish are married. Poonam is married with Vinay and she is living in her matrimonial home in Sangam Vihar, Delhi. Anup is married with Sandhya and having two children, Anushka & Lado. Neelam is married with Manish and having three children. Rachna (Appellant/Claimant) is married with Anil and having one child.

8. The Appellant/Claimant has stated that her parents, Ram Surat & Indra, are having a triple storey Jhuggi bearing No. A-52 and it comprises of two interconnected rooms on the ground floor and two rooms on the first floor and further, two rooms on the second floor and a pucca staircase has been constructed outside in the gali for going to the upper floor. The entire family is having a joint kitchen on the ground floor with their mother Indra.

9. The Appellant/Claimant has stated that her mother Indra is living on the ground floor of the Jhuggi No. A-52 and regarding that DDA has made allotment in favour of her mother Indra. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that her unmarried brother Manish is living in one of the rooms on the second floor but he has not claimed allotment from DDA against the said Jhuggi. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that her brother Anup along with his wife Sandhya and both the children is living in the second room on the second floor of the Jhuggi No. A-52 and regarding that Anup has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, Anup has filed the Appeal No. 553 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

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12. The Appellant/Claimant has stated that her sister Neelam along with her husband Manish and all the three children is living in on of the room on the first floor of the Jhuggi No. A-52 and regarding that Neelam has sought allotment from DDA but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the Appeal No. 579 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

13. The Appellant/Claimant has stated that she along with her family is living in the second room on the first floor of the Jhuggi No. A-52. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-52 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the Appeal No. 580 of 2023 before the Appellate Authority for redressal. 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.

14. It is pointed out that all the three appeals bearing Appeal No. 553 of 2023, Appeal No. 579 of 2023 and Appeal No. 580 of 2023 shall be decided separately on their individual merits.

15. DDA has furnished the survey records along with one video clip of Jhuggi No. A-52. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 27.07.2023 wherein the Appellant/Claimant has stated that the video clip pertains to the ground floor of the Jhuggi No. A-52 in which Manish is seen getting the survey conducted on behalf of his mother Indra and further, two interconnected rooms & kitchen on the ground floor are also seen. The Appellant/Claimant has stated that she has not got the videography conducted on the upper floor but only photographs were taken. The photographs placed on file show that the Appellant/Claimant is standing out side the Jhuggi and this is not sufficient to draw inference that she was living separately & independently in one of the rooms on the first floor of Jhuggi No. A-52. Similarly no video was got prepared by Neelam of the first floor and by Anup of the second floor.

16. Had Anup (Appellant/Claimant of Appeal No. 553 of 2023) been living separately & independently in one of the rooms on the second floor and similarly had Neelam

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(Appellant/Claimant of Appeal No. 579 of 2023) & Rachna (Appellant/Claimant of Appeal No. 580 of 2023) living separately & independently on the first floor then they would have certainly got the videos prepared of their respective Jhuggis but nothing of this sort was done by them.

17. The admission of the Appellant/Claimant is a clincher piece of evidence because she has specifically stated that entire family was having a joint kitchen with their mother Indra. This shows that Anup (Appellant/Claimant of Appeal No. 553 of 2023), Neelam (Appellant/Claimant of Appeal No. 579 of 2023) & Rachna (Appellant/Claimant of Appeal No. 580 of 2023) were living jointly with their mother Indra in Jhuggi No. A-52 and regarding that DDA has made allotment in favour of his mother Indra Devi and accordingly, two allotments against the same dwelling unit are not permissible as per the policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that Anup (Appellant/Claimant of Appeal No. 553 of 2023), Neelam (Appellant/Claimant of Appeal No. 579 of 2023) & Rachna (Appellant/Claimant of Appeal No. 580 of 2023) do not fulfill the eligibility criteria as per the guidelines issued by DDA.

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 first floor as per the policy guidelines issued by DDA.

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 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 she was not having a separate Ration Card on the cutoff date of

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01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/11/9.G-B/737 dated 07.11.2022.

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 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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

21. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

22. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued

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before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

24. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

25. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

26. The Appellant/Claimant has tendered her Voter ID Card No. CXY 1525542 (Annexure-A), Voter List of the year 2012 (Annexure-B), Voter List of the year 2013 (Annexure-C), Voter List of the year 2014 (Annexure-D), Voter List of the year 2015 (Annexure-E) and Voter List of the year 2019 (Annexure-F).

27. It is pointed out that the Voter ID Card No. CXY 1525542 (Annexure-A) has been issued on 28.11.2005, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 257 in the Voter List of the year 2012 (Annexure-B), at Sl. No. 257 in the Voter List of the year 2013 (Annexure-C), at Sl. No. 277 in the Voter List of the year 2014 (Annexure-D), at Sl. No. 333 in the Voter List of

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the year 2015 (Annexure-E) and at Sl. No. 397 in the Voter List of the year 2019 (Annexure-F). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

28. The Appellant/Claimant has admitted that she 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. A-52 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered the Ration Cards (Annexure-G & Annexure-H). The first Ration Card (Annexure-G) has been issued on 19.09.2008 in the name of her father Ram Surat and the name of the Appellant/Claimant has been mentioned. The new Ration Card (Annexure-H) has been issued in favour of her mother Indra and the name of the Appellant/Claimant is mentioned but the date of issuance has not been mentioned therein. 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 Jhuggi No. A-52. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

29. The material placed on file shows that the Appellant/Claimant was not living separately & independently on the first floor of Jhuggi No. A-52 but she was living jointly with their mother Indra in Jhuggi No. A-52 and regarding that DDA has made allotment in favour of her mother Indra Devi and accordingly, two allotments against the same dwelling unit are not permissible as per the policy/guidelines issued by DDA and further the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-52 regarding which she is claiming allotment from DDA. The documents, Annexure-A to Annexure-H, 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 separate Ration Card on the cutoff date of 01.01.2015 in spite of the fact that she is claiming allotment against the upper floor and she had tried to suppress the material facts to claim double allotment.

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30. Accordingly, we have no hesitation in holding that the Appellant/Claimant was not living separately & independently on the first floor of Jhuggi No. A-52 but she was living jointly with their mother Indra in Jhuggi No. A-52 and regarding that DDA has made allotment in favour of her mother Indra Devi and accordingly, two allotments against the same dwelling unit are not permissible as per the policy/guidelines issued by DDA and further the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-52 regarding which she is claiming allotment from DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

31. 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. 385/11/9.G-B/737 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

32. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 632 of 2023

Date of Institution: 26.12.2022

Date of Order: 23.08.2023

Present: Appellant/ Claimant Karan S/o Brij Lal

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-33, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-33 was found to exist but he was found to be minor on the cutoff date of 01.01.2015 and further 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/7/41.G/1621 dated 07.11.2022 to the present

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Appellant/Claimant. Aggrieved by the same, the present Appeal No. 632 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 10.08.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-33 was found to exist but he was found to be minor on the cutoff date of 01.01.2015 and further he had failed to submit required documents, i.e., valid 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 07.11.2022 whereby the reasons for rejection is mentioned to be "**Minor as on 01.01.2015**" 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 minor as on 01.01.2015 and further whether he was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015.

8. 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**

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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 jhuggie being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggie 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."

9. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he must also possess a Voter ID Card on the cut off date of 01.01.2015 and further his 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.

10. Now we shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was minor as on 01.01.2015 and also whether he was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

11. The statement of the Appellant/Claimant, Karan, has been recorded before us on 10.08.2023 wherein he has stated that his parents, Brij Lal & Ranju Devi, are having two sons, Karan (Appellant/Claimant) & Arjun. Both the sons are unmarried.

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12. The Appellant/Claimant has stated that all the four family members are living in a single storey Jhuggi No. B-33 and regarding that the Appellant/Claimant has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No 632 of 2023 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.

13. DDA has furnished the survey record along with three video clips pertaining to Jhuggi No. B-33. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 10.08.2023 wherein the Appellant/Claimant has stated that all the three video clips pertain to the ground floor of the Jhuggi No. B-33 in which the Appellant/Claimant is seen and further his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the single storey pucca Jhuggi No. B-33 of the family of the Appellant/Claimant was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and further the Appellant/ Claimant has been using the said Jhuggi No. B-33 for residential purposes.

14. The Appellant/Claimant has stated that his Date of Birth is 06.03.2001 and that has been accordingly recorded in his Aadhar Card Number 7412 4507 8616 (Annexure-A) as well as in his PAN Card (Annexure-B). This shows that the Appellant/Claimant was minor on the cutoff date 01.01.2015 and accordingly the question of issuance of Voter ID Card in his favour on the cutoff date 01.01.2015 does not arise. Further, the Appellant/Claimant has categorically admitted that he has applied for issuance of Voter ID Card after becoming major but till now no Voter ID Card has yet not been issued.

15. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that he was minor on the cut off date of 01.01.2015. This shows that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was less than 18 years of age on the cut off date of 01.01.2015. Therefore we have no hesitation in holding that the Appellant/Claimant was minor on the cut off date of 01.01.2015 and further he was not having Voter ID Card on the

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cutoff date of 01.01.2015 and 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.

16. The Appellant/Claimant has tendered Voter ID Card No. ARE 1143122 (Annexure-C), Aadhar Card (Annexure-D) & PAN Card (Annexure-E) of his father Brij Lal, the Passbook of Allahabad Bank (Annexure-F) and the Ration Card (Annexure-G).

17. It is pointed out that the Voter ID Card No. ARE 1143122 (Annexure-C) of his father Brij Lal has been issued on 12.10.2019, much after the cutoff date 01.01.2015. This shows that neither the Appellant/Claimant nor his father Brij Lal was having a valid Voter ID Card on the cutoff date 01.01.2015. Further, the Passbook of Allahabad Bank (Annexure-F) shows that the Appellant/Claimant had opened the account but the date of opening the account is not mentioned in this document and accordingly it is not relevant. The Appellant/Claimant has tendered Ration Card (Annexure-G), which has been issued in favour of his father Brij Lal on 24.08.1997 and the name of the Appellant/Claimant is mentioned. It is pointed out that the abovementioned 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 minor on the cut off date of 01.01.2015 and he was not having a Voter ID Card on the cut off date of 01.01.2015 and 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.

18. The material placed on file shows that the Appellant/ Claimant was less than 18 years of age and accordingly Voter ID Card could not be issued in his favour as he was minor on the cut off date of 01.01.2015. The Appellant/ Claimant was minor on the cut off date of 01.01.2015 and he was not having a Voter ID Card on the cut off date of 01.01.2015 and 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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19. 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. 385/7/41.G/1621 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

20. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 338 of 2023

Date of Institution: 28.11.2022

Date of Order: 24.08.2023

Present: Appellant/Claimant Hari Das S/o Sudhanshu Sarkar

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-171, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-171 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/61/33.G/1276 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 338 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 07.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-171 was found to exist but he had failed to submit required documents, i.e., Voter ID Card on the cutoff date of 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 07.11.2022 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 a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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-171 as per the policy guidelines issued by DDA

8. The statement of the Appellant/Claimant, Hari Das, has been recorded before us on 07.08.2023 wherein he has stated that his parents, Sudhanshu Sarkar & Purnima, are having four sons, Sishir, Nikhi, Manoj & Hari Das. All the children are married. Nikhil is married with Binda and having two children but Nikhil has expired and after his death his widow Binda along with children is living in West Bengal. Manoj is married with

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Beauty and having two children. Sishir is married with Sikha and having three children. Hari Das (Appellant/Claimant) is married with Monika and having two children Tushar & Piyush.

9. The Appellant/Claimant has stated that Sisir along with his wife Sikha & children is living separately in Jhuggi No. B-171 in Bhoomiheen Camp, Kalkaji and regarding that DDA has made allotment in favour of Sikha. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that Manoj along with his wife Beauty & children is living separately in Jhuggi No. B-163 in Bhoomiheen Camp, Kalkaji but he claim of Manoj has been rejected by Eligibility Determination Committee and aggrieved by the same he has filed appeal No. 408 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he is having a double storey Jhuggi No. B-158, Bhoomiheen Camp, Kalkaji and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor. The Appellant/Claimant has stated that he along with his family is living in the said Jhuggi No. B-158 but he has got the survey conducted of the Jhuggi No. B-171 of his brother Sishir, thereby, showing that it is bearing Jhuggi No. B-171. The Appellant/Claimant has also stated that he has submitted representation to DDA Authority for seeking allotment against the Jhuggi No. B-171 in Bhoomiheen Camp, Kalkaji whereas in fact he along with his family is living in Jhuggi No. B-158. The Appellant/Claimant has further stated that he was having documents prepared of Jhuggi No. B-171 of his brother, Sishir, but later on he had got the Voter ID Card & Aadhar Card changed to the address of Jhuggi No. B-158. The Appellant/Claimant has stated that his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 338 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. The admission of the Appellant/Claimant is a clincher piece of evidence as he has categorically stated that he along with his family has been living in double storey Jhuggi No. B-158 but he had submitted representation for seeking allotment from DDA

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against the Jhuggi No. B-171 belonging to his brother Sishir and further, he had also somehow managed to get the survey conducted of Jhuggi No. B-171 of Sishir. This shows that the Appellant/Claimant due to greed & lust had filed a wrong & false claim to grab allotment from DDA on the basis of the wrong claim.

13. DDA has furnished the survey record along with two video clips pertaining to Jhuggi No. A-171. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 07.08.2023 wherein the Appellant/Claimant has stated that both the video clips pertain to the ground floor of the Jhuggi No. B-171 in which he is seen and further one room & kitchen are seen. However, the admission of the Appellant/Claimant shows that by making mis-representation to the survey team he had somehow managed to get the survey conducted of Jhuggi No. B-171 of his brother Sishir in collusion with his family members whereas in realty he along with his family was living in double storey Jhuggi No. B-158, Bhoomiheen Camp, Kalkaji. Thus the Appellant/Claimant on the cutoff date of 01.01.2015 was not living in Jhuggi No. B-171 regarding which he has claimed allotment from DDA but instead he was living in another Jhuggi No. B-158, Bhoomiheen Camp, Kalkaji. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

14. Now we shall first appraise the material placed on file to determine the eligibility on other parameters 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 he is entitled to claim allotment against the Jhuggi No. B-171 as per the policy guidelines issued by DDA.

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.

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

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

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- 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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16. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and 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.

17. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. B-171 as per the policy guidelines issued by DDA.

18. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), PAN Card (Annexure-D), Voter List of the year 2012 (Annexure-I), Voter List of the year 2013 (Annexure-J) and Voter List of the year 2023 (Annexure-K).

19. It is pointed out that the Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B). However, the Appellant/Claimant has failed to explain the reasons for having got two Voter ID Cards issued in his favour.

20. It is pointed out that the first Voter ID Card No. ARE 1147495 (Annexure-A) has been issued on 27.10.2008, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 534 in the Voter List of the year 2012 (Annexure-I), at Sl. No. 534 in the Voter List of the year 2013 (Annexure-J) and in both the Voter Lists the number of Voter ID Card is mentioned to be ARE 1147495 (Annexure-A). However, the Appellant/Claimant has not the tendered the Voter List of the years 2014, 2015 & 2019 to show that he had used Voter ID Card No. ARE 1147495 (Annexure-A) to cast his vote in the year 2015 & 2019. This accordingly shows that the Voter ID Card No. ARE 1147495 (Annexure-A) was not issued after 2013 and

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accordingly it might have been cancelled by the Election Commission and that is why Voter List of the year 2014, 2015 and 2019 are not placed on file by the Appellant/Claimant. This creates doubt and suspicion.

21. It is also pointed out that the second Voter ID Card No. ARE 2603829 (Annexure-B) has been issued on 27.08.2022, much after the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 679 in the Voter List of the year 2023 (Annexure-K) and the number of the Voter ID Card is mentioned to be ARE 2603829 (Annexure-B). However, the Appellant/Claimant has failed to explain the reasons of having got two Voter ID Cards issued in his favour. These two documents, i.e., the second Voter ID Card No. ARE 2603829 (Annexure-B) and the Voter List of the year 2023 (Annexure-K) pertains to the post relevant date of 01.01.2015 and accordingly, the same are not relevant.

22. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card No. ARE 1147495 (Annexure-A) dated 27.10.2008 and it was used to cast vote in the years 2012 and 2013 as reflected in the Voter List of the year 2012 (Annexure-I) and in the Voter List of the year 2013 (Annexure-J) but there is no cogent material on file to show that it continued to be a valid document on the cutoff date of 01.01.2015 as the Voter List of the years 2014, 2015 (prior to 01-01-2015) and 2019 are not placed on file by the Appellant/Claimant. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut-off date of 01.01.2015 and his name also appears in the voter list of the year's 2012 and 2013 but no Voter List of the years 2014 and 2015 (prior to 01-01-2015) & also of the year of survey have been tendered. Therefore, we have no hesitation in holding that the name of the Appellant/ Claimant does not appear in the voter list of the year's 2014 and 2015 (prior to 01-01-2015) & of the year of survey and accordingly the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

23. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1152511 (Annexure-E), Aadhar Card (Annexure-F) & PAN Card (Annexure-G) of his wife Monika and the Passbook of PNB (Annexure-H).

24. It is pointed out that the Voter ID Card No. ARE 1152511 (Annexure-E) of his wife Monika has been issued on 27.10.2008. The Passbook of PNB Bank (Annexure-H) shows that the Appellant/Claimant had opened the account on 23.07.2021, much after the cutoff date 01.01.2015. It is pointed out that the above-mentioned documents are

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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 name of the Appellant/ Claimant does not appear in the voter list of the year's 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

25. The material placed on file shows that the name of the Appellant/ Claimant does not appear in the voter list of the year's 2014 and 2015 (prior to 01-01-2015) & of the year of survey. The documents, Annexure-A to Annexure-K, 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.

26. Accordingly, we have no hesitation in holding that the name of the Appellant/ Claimant does not appear in the voter list of the year's 2014 and 2015 (prior to 01-01-2015) & of the year of survey. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

27. 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. 385/61/33.G/1276 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

28. 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.

24/8/2023

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

24/8/2023

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

24/8/2023

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 358 of 2023

Date of Institution: 29.11.2022

Date of Order: 24.08.2023

Present: Appellant/ Claimant Mithul Ghosh @ Sudip Ghosh S/o Gopal Ghosh

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-221, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-221 was found to exist on the ground floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility

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Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/18/12.G/755 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 358 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 11.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-S 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-221 was found to exist on the ground floor but he had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee (EDC) has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 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 No. 358 of 2023.

7. It is pointed out at the very outset that the material placed on file as well as the survey records furnished by DDA shows that the Jhuggi No. C-221, Bhoomiheen Camp of the Appellant/Claimant was found to exist on the ground floor and all the requisite documents, except Voter ID Card, were found and accordingly his claim was rejected on the sole ground that his voter ID card was not found to have been verified.

8. 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

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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 whether he is entitled to claim allotment against Jhuggi bearing No. C-221 as per the policy guidelines issued by DDA.

9. The statement of the Appellant/Claimant, Mithul Ghosh, has been recorded before us on 11.07.2023 wherein he has stated that his parents, Gopal Ghosh & Asha, are having one son Mithul Ghosh and one daughter Shipra. Gopal Ghosh had died on 16.04.2011 and Asha had died on 04.01.2012 and their Death Certificates are Annexure-G & Annexure-H respectively. Shipra is married with Dinesh Chaudhary and she is living in her matrimonial home in Jhuggi No. C-188 in Bhoomiheen Camp, Kalkaji and regarding that DDA has made allotment in favour of her mother-in-law, Gulabo Devi. Mithul Ghosh (Appellant/Claimant) is married with Sheela and having one son Molik.

10. The Appellant/Claimant has stated that previously he was known by the name of Sudeep Ghosh but in the year 2016 he has got his name changed from Sudeep Ghosh to Mithul Ghosh and the change was also got duly reflected in his documents.

11. The Appellant/Claimant has stated that he along with his wife Sheela and son Molik is living in a single storey Jhuggi No. C-221 in Bhoomiheen Camp, Kalkaji. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi No. C-221 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 358 of 2023 before the Appellate Authority for redressal. 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.

12. DDA has furnished the survey record along with two video clips pertaining to Jhuggi No. C-221. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 11.07.2023 wherein the Appellant/Claimant has stated that the both video clips pertain to the single storey Jhuggi No. C-221 having roof made of asbestos and further the Appellant/Claimant is seen and his room & kitchen are also seen. It is also pertinent to point out that the survey team has made a remark **"Single story jhuggi ground floor is use same owner ration card father name add and son name add ration card pan card ablebile"** (spelling mistake and formation of sentence ignored by us) in its report placed on file by DDA.

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Further it is also mentioned by the survey team that the Appellant/Claimant was living there with his wife Sheela Dhali having Aadhar No. 2391 4723 9635. This shows that the Jhuggi No. C-221 is a single storey structure and it is single dwelling unit of the Appellant/Claimant and the same is used for residential purposes by the Appellant/Claimant and his family.

13. Thus the statement of the Appellant/Claimant as well as the survey records/video clips furnished by DDA has duly proved that a pucca single storey Jhuggi No. C-221 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and Appellant/ Claimant was living in the said Jhuggi No. C-221 and having a room and kitchen. The single storey Jhuggi No. C-221 is found to be single dwelling unit of the Appellant/Claimant, Mithul Ghosh and against that only one claim by the present Appellant/Claimant has been submitted for seeking alternative allotment from DDA.

14. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. C-221 in Bhoomiheen Camp is a pucca structure and it was in existence much prior to the cutoff date of 01.01.2015 and it is single dwelling unit of the Appellant/Claimant, Mithul Ghosh and further the Appellant/ Claimant and his family has been using the said Jhuggi for residential purposes. Therefore, the parameters for the ground floor are applicable 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 he is entitled to claim allotment against the single storey Jhuggi bearing No. C-221, which is found to be single dwelling unit, as per the policy guidelines issued by DDA.

15. 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 Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the said Jhuggi bearing No. C-221 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- S, in support of his claim and prayed that DDA be directed to make allotment in his favour.

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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.
>
> **<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>**

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

18. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he must also possess a Voter ID Card on the cut off date of 01.01.2015 and further his 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.

19. In the light of our discussion above, we shall now appraise the material placed on file by taking holistic & realistic view to determine as to whether the Appellant/ Claimant was having all the requisite documents, including 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-221 as per the policy guidelines issued by DDA.

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20. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Cards (Annexure-C & Annexure-D), PAN Card (Annexure-E), Voter List of the year 2013 (Annexure-P), Voter List of the year 2014 (Annexure-Q), Voter List of the year 2015 (Annexure-R) and Voter List of the year 2019 (Annexure-S).

21. The Appellant/Claimant has specifically stated that previously he was known by the name of Sudeep Ghosh but in the year 2016 he has got his name changed from Sudeep Ghosh to Mithul Ghosh and the change was also got duly reflected in his documents.

22. It is pointed out that the Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B) and both are bearing same number ARE 1554302. The fist Voter ID Card No. ARE 1554302 (Annexure-A) has been issued on 20.07.2012 and the second Voter ID Card No. ARE 1554302 (Annexure-B) has been issued on 06.09.2016. In the first Voter ID Card No. ARE 1554302 (Annexure-A) the name of the Appellant/Claimant is mentioned to be Sudeep Ghosh but in the second Voter ID Card No. ARE 1554302 (Annexure-B) his name is mentioned to be Mithul Ghosh. Both the Voter ID Cards No. ARE 1554302 (Annexure-A & Annexure-B) have been issued on the address of Jhuggi No. C-221 regarding which the Appellant/Claimant is claiming allotment from DDA.

23. The Appellant/Claimant has tendered two Aadhar Cards (Annexure-C & Annexure-D). The name of the Appellant/Claimant has been mentioned to be Sudeep Ghosh in the old Aadhar Card (Annexure-C) whereas his name is recorded to be Mithul Ghosh in the new Aadhar Card (Annexure-D), which has been issued on 16.07.2023.

24. It is also pointed out that name of the Appellant/Claimant appears at Sl. No. 803 in the Voter list of the year 2013 (Annexure-P), at Sl. No. 585 in the Voter List of the year 2014 (Annexure-Q), at Sl. No. 608 in the Voter List of the year 2015 (Annexure-R) and at Sl. No. 593 in the Voter List of the year 2019 (Annexure-S). It is also pointed out that in all the Voter Lists (Annexure-P to Annexure-S) the number on the Voter ID Card of the Appellant/Claimant is mentioned to be ARE 1554302 and his address is also mentioned to be Jhuggi No. C-221 regarding which he is claiming allotment from DDA.

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25. It is also pointed out the name of the Appellant/Claimant is mentioned to be Sudeep Ghosh in the Voter Lists of Annexure-P to Annexure-R, but his name reflected to be Mithul Ghosh in the Voter List of Annexure-S after he had got his name changed from Sudeep Ghosh to Mithul Ghosh.

26. The document Annexure-A to Annexure-S, accordingly corroborates the statement of the Appellant/Claimant that previously he was known by the name of the Sudeep Ghosh but later on he has changed his name to Mithul Ghosh. But the fact remains that the Appellant/Claimant was having Voter ID Card No. ARE 1554302 (Annexure-A) on the cutoff date 01.01.2015 and further, he had used this Voter ID Card to cast his vote in the year 2013, 2014, 2015 & 2019 as reflected in the Voter Lists (Annexure-P to Annexure-S). Therefore, we have no hesitation in holding that the Appellant/Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and further his name also appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA.

27. The Appellant/Claimant has tendered the Electricity Bill (Annexure-H), Voter ID Card No. ARE 1173046 (Annexure-I), the Passport (Annexure-J), the Passbook of United Bank of India (Annexure-K), the Passbook of United Bank of India (Annexure-L), Ration Cards (Annexure-M & Annexure-N) and School Transfer Certificate (Annexure-O).

28. It is pointed out that the Electricity Bill (Annexure-H) shows that his father Gopal Ghosh has taken the electricity connection on 02.06.2008 on the single storey Jhuggi No. C-221. The Voter ID Card No. ARE 1173046 (Annexure-I) and the Passport of his father Gopal Ghosh have been issued on 27.10.2008 and 06.101993 respectively. The Passbook of United Bank of India (Annexure-K) shows that the Appellant/Claimant had opened account on 03.11.2012 and in the Passbook his name is recorded to be Sudeep Ghosh. The Passbook of Oriental Bank (Annexure-L) shows that the Appellant/Claimant had opened account on 27.12.2016 in that his name is recorded to be Mithul Ghosh. The Appellant/Claimant has tendered the Ration Card (Annexure-M), which has been issued in the favour of his father Gopal Ghosh on 13.03.2010 and the name of the Appellant/Claimant is recorded to be Mithul Ghosh. The Appellant/Claimant has tendered the separate Ration Card (Annexure-N) which has

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been issued in his favour in which his name is recorded to be Sudeep Ghosh but the date of issuance is not mentioned. Furthermore, the School Transfer Certificate (Annexure-O) of the Appellant/Claimant has been issued on 27.05.2023 and in that his name is recorded to be Sudeep Ghosh. It is pertinent to point out that the above mentioned documents pertains to the Appellant/Claimant as well as his family members and all have been issued on the address of Jhuggi No. C-221 regarding which the Appellant/Claimant is claiming allotment from DDA. This corroborates the claim put forward by the Appellant/Claimant that he along with his family members has been living since long and more specifically on the cut off date of 01.01.2015 on the address of Jhuggi No. C-221 regarding which he is claiming allotment from DDA. It is also pointed out that the Appellant/ Claimant was living in the single storey Jhuggi No. C-221 along with his family. This fact is corroborated by the survey report/video clips made by the survey team of DDA. The cogent material furnished by the Appellant/Claimant has proved that the Appellant/Claimant was very much living on in the said Jhuggi No. C-221 along with his family and further he was having a valid Voter ID Card on the cut off date 0f 01.01.2015 and his name also appears in the voter list of the year's 2012, 2013, 2014, 2015 (prior to 01-01-2015), 2018 & in the year of survey also. Accordingly, we have no hesitation in holding that the Appellant/ Claimant fulfills the eligibility criteria as per guidelines issued by DDA.

29. The material placed on file shows that the Jhuggi No C-221 is a single storey structure, and it was used by the Appellant/Claimant & his family for residential purposes on the cutoff date of 01.01.2015 and further the Appellant/ Claimant was having all the requisite documents, including Voter ID card, on the cutoff date of 01.01.2015 and his name also appears in the voter list of the year's 2012, 2013, 2014, 2015 (prior to 01-01-2015), 2018 & in the year of survey also.

30. Hence, we have no hesitation in holding that the Jhuggi No. C-221 is a single storey structure and the Appellant/ Claimant & his family has been living in the said Jhuggi No. C-221 on the cutoff date of 01.01.2015 and using it for residential purposes and further the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and his name also appears in the voter list of the year's 2012, 2013, 2014, 2015 (prior to 01-01-2015), 2018 & in the year of survey also. Therefore, the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA.

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31. In view of our findings above, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA but the Eligibility Determination Committee has wrongly and illegally rejected his claim. Hence the present Appeal No. 358 of 2023 stands allowed, hereby, setting aside the impugned order bearing No. 385/18/12.G/755 dated 07.11.2022. DDA is hereby directed to make allotment in favour of the Appellant/ Claimant Mithul Ghosh @ Sudip Ghosh S/o Gopal Ghosh, in respect of the Jhuggi No. C-221, Bhoomiheen Camp.

32. 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.

24/8/2023	S/Ahlawat 24/8/2023	Tiwary 24/8/2023
(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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 376 of 2023

Date of Institution: 29.11.2022

Date of Order: 24.08.2023

Present: Appellant/Claimant Beena Roy W/o Pallab Roy

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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. B-106, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's jhuggi bearing No. B-106 was found to exist on the ground floor 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, Bhoomiheen Camp, duly communicated its order bearing No.

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385/26/133.G/884 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 376 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 09.08.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-106 was found to exist on the ground floor but she had failed to submit required documents, i.e., Voter ID Card on the cutoff date of 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 07.11.2022 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 a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. B-106 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Beena Roy, has been recorded before us on 09.08.2023 wherein she has stated that she is married with Pallab Roy and having two children Priyanshu & Akshita. The Appellant/Claimant has stated that she is having a double storey Jhuggi No. B-106 and it comprises of one room on each floor and a pucca

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staircase has been constructed outside in the gali for going to the upper floor. This shows that the double storey Jhuggi No. B-106 is a single dwelling unit.

9. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi No. B-106 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 376 of 2023 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 the survey record along with five video clips pertaining to Jhuggi No. B-106. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 09.08.2023 wherein the Appellant/Claimant has stated that the five video clips pertain to the ground floor of the Jhuggi No- B-106 in which the Appellant/Claimant, Beena Roy, is seen and further, her room & kitchen are also seen and she is heard stating that the Jhuggi No. B-106 is having a first floor but no video clip of first floor was prepared. However, there is nothing to disbelieve the statement of the Appellant/Claimant that the said Jhuggi No. B-106 is a double storey structure especially when she is also heard making statement in the video that the Jhuggi No. B-106 is a double storey structure. Thus the statement of the Appellant/Claimant as well as the survey records/video clips-photographs has duly proved that the double storey Jhuggi No. B-106 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and it has been used for residential purposes by Beena Roy (Appellant/ Claimant of Appeal No. 376 of 2023).

11. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-106 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the said Jhuggi for residential purposes.

12. 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, 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. B-106 as per the policy guidelines issued by DDA.

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13. 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.

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

"**Part-B**

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

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

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

- 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."

15. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and 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.

16. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further 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. B-106 as per the policy guidelines issued by DDA.

17. The Appellant/Claimant has tendered her Voter ID Cards (Annexure-A & Annexure-B) & Aadhar Card (Annexure-C).

18. It is pointed out that her two Voter ID Cards (Annexure-A & Annexure-B). The first Voter ID Card (Annexure-A) is bearing number ARE 1151802 and it has been issued on 22.04.2010 whereas the second Voter ID Card (Annexure-B) is bearing number ARE

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2611853 and it has been issued on 19.12.2022. The Appellant/Claimant has failed to explain the reasons for getting two Voter ID Cards issued in her favour. Furthermore, the Appellant/Claimant has not tendered any Voter Lists on file to show that she had used any of the two Voter ID Cards (Annexure-A & Annexure-B) to cast her vote in any of the elections and more specifically from the years 2012 to the year 2019. This also shows that the Voter ID Card No. ARE 1151802 (Annexure-A) might have also be cancelled by the election commission for having not used after its issuance. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut-off date of 01.01.2015 and 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. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

19. The Appellant/Claimant has tendered the Ration Card (Annexure-D) and the Voter ID Card No. ARE 1151713 (Annexure-E) of her husband Pallab Roy.

20. It is pointed out that the Appellant/Claimant has tendered Ration Card (Annexure-D), which has been issued in her favour and the name of her husband Pallab Roy is mentioned but the date of issuance is not mentioned. Further, the Appellant/Claimant has also tendered the Voter ID Card No. ARE 1151713 (Annexure-E) of her husband Pallab Roy, which has been issued on 22.04.2011 but no Voter List is placed on file to show that Pallab Roy had used this Voter ID Card to cast his vote in any of the elections. This further shows that neither the Appellant/Claimant nor her husband Pallab Roy has used their respective Voter ID Cards to cast their votes, thereby, showing that they were not living in Jhuggi No. B-106 regarding which they are claiming allotment from DDA but somehow they have managed to get the survey conducted to grab allotment by DDA by hook or crook. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a Voter ID Card on the cut-off date of 01.01.2015 and 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.

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21. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card on the cut-off date of 01.01.2015 and 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. The documents, Annexure-A to Annexure-E, 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.

22. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut-off date of 01.01.2015 and 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. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

23. 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. 385/26/133.G/884 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

24/8/2023

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

24/8/2023

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 513 of 2023

Date of Institution: 02.12.2022

Date of Order: 24.08.2023

Present: Appellant/ Claimant Ravi S/o Virendra Nath

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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. R-34 C, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. R-34 C was found to exist but he was found to be minor on the cutoff date of 01.01.2015 and further 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/26/173.G/911 dated 07.11.2022 to the present

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Appellant/Claimant. Aggrieved by the same, the present Appeal No. 513 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 18.08.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. R-34 C was found to exist but he was found to be minor on the cutoff date of 01.01.2015 and further he had failed to submit required documents, i.e., valid 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 07.11.2022 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 minor as on 01.01.2015 and further whether he was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. R-34 C as per the policy guidelines issued by DDA.

8. 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 jhuggie being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggie 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."

9. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he must also possess a Voter ID Card on the cut off date of 01.01.2015 and further his 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.

10. Now we shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was minor as on 01.01.2015 and also whether he was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

11. The statement of the Appellant/Claimant, Ravi, has been recorded before us on 18.08.2023 wherein he has stated that his parents, Virender and Laxmi, are having three children, Ravi, Aarti & Puja. Virender had expired in the year 2003. All the children are unmarried.

12. The Appellant/Claimant has stated that his family is having two Jhuggis, one is bearing Jhuggi No. B-694 and it is a single storey Jhuggi. His mother Laxmi along with both the unmarried daughters are living in the said Jhuggi No. B-694 and regarding that DDA has

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made allotment in favour of his mother Laxmi. These facts are not disputed by DDA.

13. The Appellant/Claimant has stated the second Jhuggi is bearing number R-34 C and it is a double storey Jhuggi 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 ground floor of the Jhuggi No. R-34 C has been used by the Appellant/Claimant for running a grocery shop whereas the first floor is used by him for residential purpose. The Appellant/Claimant has sought allotment from DDA against the Jhuggi No. R-34 C but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 513 of 2023 before the Appellate Authority for redressal. 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.

14. DDA has furnished the survey record along with three video clips pertaining to Jhuggi No. R-34C. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 18.08.2023 wherein the Appellant/Claimant has stated that the first video clip pertains to the ground floor of the Jhuggi No. R-34C in which grocery shop of the Appellant/Claimant is seen and further, an iron ladder placed outside in the gali and used for going to the upper floor is also seen. The next two video clips pertain to the first floor of the Jhuggi No. R-34C in which an iron ladder placed outside in the gali for going to the upper floor is seen and further one room of the Appellant/Claimant is seen but no kitchen is seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey pucca Jhuggi No. R-34C of the family of the Appellant/Claimant was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and further the Appellant/ Claimant has been using the ground floor as grocery shop and the first floor for residential purpose even though there is no kitchen.

15. The Appellant/Claimant has stated that his Date of Birth is 20.03.1997 and that has been accordingly recorded in his Voter ID Card No. ARE 2125367 (Annexure-B), Aadhar Card Number 7099 8081 8927 (Annexure-B) as well as in his PAN Card (Annexure-C). This shows that the Appellant/Claimant was minor on the cutoff date 01.01.2015 and accordingly the question of issuance of Voter ID Card in his favour on the cutoff date 01.01.2015 does not arise.

16. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows

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that he was minor on the cut off date of 01.01.2015. This shows that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was less than 18 years of age on the cut off date of 01.01.2015. Therefore, we have no hesitation in holding that the Appellant/Claimant was minor on the cut off date of 01.01.2015 and further he was not having Voter ID Card on the cutoff date of 01.01.2015.

17. The Appellant/Claimant has tendered his Voter ID Card No. ARE 2125367 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter List of the year 2019 (Annexure-G).

18. It is pointed out that the Voter ID Card No. ARE 2125367 (Annexure-A) has been issued on 22.01.2020, much after the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 1299 in the Voter List of the year 2019 (Annexure-G). But the fact remains that the Appellant/Claimant was minor was minor on the cut off date of 01.01.2015 and further he was not having Voter ID Card on the cutoff date of 01.01.2015 and 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.

19. The Appellant/Claimant has tendered the Electricity Bill (Annexure-D), the Passbook of PNB (Annexure-E) and Gas connection (Annexure-F).

20. It is pointed out that the Electricity Bill (Annexure-D) shows that the electricity connection has been taken by the Appellant/Claimant on 02.11.2017. The Passbook of PNB (Annexure-E) shows that the Appellant/Claimant has opened the account on 28.06.2013. The Gas connection (Annexure-F) shows that the Appellant/Claimant had taken gas connection on 28.05.2019. The Application (Annexure-H) shows that the Appellant/Claimant had made an application for issuance of Ration Card on 07.09.2021, much after the cutoff date of 01.01.2015. It is pointed out that the abovementioned 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 minor on the cut off date of 01.01.2015 and he was not having a Voter ID Card on the cut off date of 01.01.2015 and 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.

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21. The material placed on file shows that the Appellant/ Claimant was less than 18 years of age and accordingly Voter ID Card could not be issued in his favour as he was minor on the cut off date of 01.01.2015. The Appellant/ Claimant was minor on the cut off date of 01.01.2015 and he was not having a Voter ID Card on the cut off date of 01.01.2015 and 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

22. 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. 385/26/173.G/911 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

23. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 586 of 2023

Date of Institution: 07.12.2022

Date of Order: 24.08.2023

Present: Appellant/Claimant Kamlesh Gupta W/o Pankaj Gupta

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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. B-276/1, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-276/1 was found to exist on the ground floor 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, Bhoomiheen Camp, duly communicated its order bearing No.

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385/27/221.G/920 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 586 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 09.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-D, 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-276/1 was found to exist on the ground floor but she had failed to submit required documents, i.e., Voter ID Card on the cutoff date of 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 07.11.2022 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 a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on 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. B-276/1 as per the policy guidelines issued by DDA

8. The statement of the Appellant/Claimant, Kamlesh Gupta, has been recorded before us on 09.08.2023 wherein she has stated that she is married with Pankaj Gupta and having three children, Sagar, Karan & Sweta. All the children are unmarried.

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9. The Appellant/Claimant has stated that her family is having a single storey Jhuggi No. B-276/1 in which she along with her husband Pankaj Gupta and all the children, Sagar, Karan & Sweta is living. The Appellant/Claimant has sought allotment from DDA against the said single storey Jhuggi No. B-276/1 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 586 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-D, in support of her claim and prayed that DDA be directed to make allotment in her favour.

10. DDA has furnished the survey records of the Jhuggi No. B-276/1 but the video clips are not available. However, the photographs taken by the survey team are placed on file and the same corroborates the statement of the Appellant/Claimant that Jhuggi No. B-276/1 is a single storey structure and the Appellant/Claimant was found to be living there by the survey team. Thus the statement of the Appellant/Claimant as well as the survey records/photographs has duly proved that a double storey Jhuggi No. B-276/1 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and it has been used for residential purposes by the Appellant/ Claimant Kamlesh Gupta.

11. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. B-276/1 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the said Jhuggi for residential purposes.

12. 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, 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. B-276/1 as per the policy guidelines issued by DDA.

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

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14. 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.
>
> **<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.

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

15. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and 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.

16. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further 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. B-276/1 as per the policy guidelines issued by DDA.

17. The Appellant/Claimant has tendered her Voter ID Card AKC 1131598 (Annexure-A) and Aadhar Card (Annexure-B).

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18. It is pointed out that the Voter ID Card No. AKC 1131598 (Annexure-A) has been issued on 28.10.2008, much prior to the cutoff date 01.01.2015. Moreover, the Appellant/Claimant has categorically stated that she had exercised her franchise right only once but she has not disclosed the year in which she had exercised her franchise right. However, the Appellant/Claimant has not tendered any Voter Lists on file to show that she had used the Voter ID Card No. AKC 1131598 to cast her vote in any of the years after its issuance and more specifically from the years 2012 to 2019. This also shows that the Voter ID Card No. AKC 1131598 (Annexure-A) might have also been cancelled by the Election Commission for having not used after its issuance. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut-off date of 01.01.2015 and 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. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

19. The Appellant/Claimant has tendered Electricity Bill (Annexure-C) and Ration Card (Annexure-D).

20. It is pointed out that the Electricity Bill (C) shows that the Appellant/Claimant had taken the electricity connection on 28.06.2008. Further, the Ration Card (Annexure-D) has been issued in favour of the Appellant/Claimant but the date of issuance is not mentioned and further the name of any of her family members are conspicuously missing. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a Voter ID Card on the cut-off date of 01.01.2015 and 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.

21. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card on the cut-off date of 01.01.2015 and 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

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of survey. The documents, Annexure-A to Annexure-D, 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.

22. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut-off date of 01.01.2015 and 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. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

23. 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. 385/27/221.G/920 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

24. 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.

24/8/2023

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

24/8/2023

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

24/8/2023

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 625 of 2023

Date of Institution: 21.12.2022

Date of Order: 24.08.2023

Present: Appellant/Claimant Subedar S/o Moti Ram

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-691/1, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-691/1 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/10/55.G/703 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by

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the same, the present Appeal No. 625 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 09.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-691 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DDA

8. The statement of the Appellant/Claimant, Subedar, has been recorded before us on 09.08.2023 wherein he has stated that his parents, Moti Ram & Badama, are having one son Subedar and three daughters, Nirmala, Seema & Rima. Moti Ram had expired

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about eight years ago. All the children are married. Nirmala is married with Murli and she is living in her matrimonial home in Sakarpur, Delhi. Rima is married with Sanjay and she is living in Sangam Vihar, Delhi. Seema is married with Rajesh and she is living with her parents in Bhoomiheen Camp, Kalkaji. Subedar (Appellant/Claimant) is married with Sangita and having three children, Priyanka, Vidya & Adarsh.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. B-691/1 and it comprises of one room on each floor and a bamboo ladder is placed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that his mother, Badama, along with the family of her daughter Seema is living on the ground floor of the Jhuggi No. B-691/1 regarding that DDA has made allotment in favour of her mother Badama. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Sangita and all the three children, Priyanka, Vidya & Adarsh, is living on the first floor of the Jhuggi No. B-691/1. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. B-691/1 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 625 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-I, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished the survey record along with six video clips pertaining to Jhuggi No. B-691/1. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 09.08.2023 wherein the Appellant/Claimant has stated that the three video clips pertain to the ground floor of the Jhuggi No. B-691/1 in which his mother Badama is seen and further her room & kitchen are also seen. The next three video clips pertain to the first floor of the Jhuggi No. B-691/1 in which the Appellant/Claimant is seen and his room & kitchen are also seen and further a bamboo ladder, which is used for going to the upper floor is seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. B-691/1 was in existence in the Bhoomiheen Camp on the

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cutoff date of 01.01.2015 and ground floor has been used for residential purposes by his mother, Badama, whereas the first floor is used for residential purposes by Subedar (Appellant/ Claimant of Appeal No. 625 of 2023).

13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-691/1 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & 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 as per the policy guidelines issued by DDA.

15. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-I, in support of her 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 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 separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/10/55.G/703 dated 07.11.2022.

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:

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"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.

<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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

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GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

22. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

23. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), PAN Card (Annexure-D), Voter List of the year 2015 (Annexure-H) and Voter List of the year 2019 (Annexure-I).

24. 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 CXY 1074947 and it has been issued on 07.03.2002, much prior to the cutoff date 01.01.2015. The second Voter ID Card (Annexure-B) is bearing number ARE 1163823 and it has been issued on 27.10.2008, much prior to the cutoff date 01.01.2015. Thus both the Voter ID Cards (Annexure-A & Annexure-B) have been issued much prior to the cutoff date 01.01.2015. But the Appellant/Claimant had failed to explain the reasons for getting the two Voter ID Cards issued in his favour.

25. The name of the Appellant/Claimant appears at Sl. No. 1260 in the Voter List of the year 2015 (Annexure-H) and at Sl. No. 1250 in the Voter List of the year 2019

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(Annexure-I) and in both the Voter Lists the number of his Voter ID Card is mentioned to be ARE 1163823 (Annexure-B). Further, the Appellant/Claimant has also not tendered the Voter List of the years 2012, 2013 & 2014 to show that he had used any of the Voter ID Cards to cast his vote during these years. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut-off date of 01.01.2015 and his name also appears in the voter list of the year's 2015 & also in the year of survey but no Voter List of the years 2012, 2013 & 2014 have been tendered to show that his name appear in the Voter List of the years 2012, 2013 & 2014. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

26. 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. B-691/1 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 Jhuggi No. B-691/1. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

27. The Appellant/Claimant has tendered Voter ID Card No. CXY 1071042 (Annexure-E) & Aadhar Card of his wife Sangita and the Electricity Bill (Annexure-G).

28. It is pointed out that Voter ID Card No. CXY 1071042 (Annexure-E) of his wife Sangita has been issued on 06.03.2002. The Electricity Bill (Annexure-G) also shows that the electricity connection has been taken by his father, Moti Ram, on 24.04.2008 thereby showing that the Appellant/Claimant was not having electricity connection on the first floor of the Jhuggi No. B-691/1 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a 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.

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29. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 and his name also does not appear in the Voter List of the years 2012, 2013 & 2014. The documents, Annexure-A to Annexure-I, 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 separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

30. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-691/1 regarding which he is claiming allotment from DDA and further his name also does not appear in the Voter List of the years 2012, 2013 & 2014. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

31. 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. 385/10/55.G/703 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

32. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 112 of 2023

Date of Institution: 22.11.2022

Date of Order: 25.08.2023

Present: Appellant/ Claimant Rina Mandal W/o Ravi Mandal D/o Basant Jelani

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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. B-323, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-323 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/37/93.1/1031 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 112 of 2022 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 01.08.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-323 was found to exist on the upper floor but she had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and

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whether she is entitled to claim allotment against the first floor of Jhuggi bearing No. B-323 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Rina Mandal, has been recorded before us on 01.08.2023 wherein she has stated that her in-laws, Sonu Mandal & Mamta, are having two sons, Ravi & Vishu. Mamta had expired about twenty years ago and Sonu Mandal had expired about fifteen years ago. Both the sons are married. Vishu is married with Jayanti and having two children, Tushal & Koyal. Ravi is married with Rina (Appellant/Claimant) and having two children, Nandani & Suraj.

9. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. B-323 and it comprises of one room on each floor and an iron ladder is placed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that Vishu along with his wife Jayanti and both the children is living on the ground floor of the Jhuggi No. B-323 and regarding that DDA has made allotment in favour of Jayanti. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that she along with her husband Ravi and both the children, Nandani & Suraj, is living on the first floor of the Jhuggi No. B-323. The Appellant/Claimant has claimed allotment from DDA against the first floor of the said Jhuggi No. B-323 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 112 of 2022 before the Appellate Authority for redressal. 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.

12. DDA has furnished the survey records along with six video clips of Jhuggi No. B-323. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 01.08.2023 wherein the Appellant/Claimant has stated that three video clips pertain to the ground floor of the Jhuggi No. B-323 in which Jayanti W/o Vishu is seen and further, her room & kitchen on the ground floor of the Jhuggi No. B-323 are also seen. The next three video clips pertain to the first floor of the Jhuggi No. B-323 in which the Appellant/Claimant Rina is seen and further, her room & kitchen on the first

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floor are also seen. The statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that double storey Jhuggi No. B- 323 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. B- 323 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with her family is using the first floor of the said Jhuggi for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi No. B- 323 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 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. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/39/93.1/1031dated 07.11.2022.

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

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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.

<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.

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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

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considered for allotment of a separate dwelling units."

20. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

22. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi No. B-323 as per the policy guidelines issued by DDA

23. The Appellant/Claimant has tendered her Voter ID card No. ARE 2510576 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C).

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24. It is pointed out that the Voter ID card No. ARE 2510576 (Annexure-A) has been issued on 29.01.2020, much after the cutoff date of 01.01.2015 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. 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 and 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, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

25. The Appellant/Claimant has stated that she 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. B-323 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered two Ration Cards (Annexure-H & Annexure-I). The old Ration Card (Annexure-H) has been issued on 22.06.2002 in favour of her grandmother-in-law, Maya Devi, and the name of the husband of the Appellant/Claimant is mentioned but that of the Appellant/Claimant is missing. The new Ration Card (Annexure-I) has been issued in favour of her grandmother-in-law, Maya Devi, and the name of her husband Ravi Mandal is mentioned but that of the Appellant/Claimant is not mentioned and the date of issuance is also not mentioned. 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. B- 323 regarding which she 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

26. The Appellant/Claimant has tendered Voter ID Card No. ARE 1153550 (Annexure-D) & Aadhar Card (Annexure-E) of her husband Ravi Mandal and Voter List of the year 2014 (Annexure-K) & Voter List of the year 2019 (Annexure-L).

27. It is pointed out that the Voter ID Card No. ARE 1153550 (Annexure-D) of Ravi Mandal has been issued on 03.04.2020, much after the cutoff date of 01.01.2015. Further, his name appears at Sl. No. 192 in the Voter List of the year 2014 (Annexure-K) and at Sl. No. 264 in the Voter List of the year 2019 (Annexure-L). This shows that the Ravi Mandal

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was having the Voter ID Card on the cut off date of 01.01.2015. But these facts are not relevant because as per out discussion above, the Appellant/Claimant was not having Voter ID Card on the cut off date of 01.01.20.15 and further, her name also does not appear in the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

28. The Appellant/Claimant has tendered her Electricity Bill (Annexure-F), Passbook of PNB (Annexure-G).

29. It is pointed out that the Electricity Bill (Annexure-F) shows that the connection has been taken by her grandmother-in-law, Maya Devi, who has expired on 21.11.2013 and her death certificate is Annexure-J, on 06.06.2008 on the ground floor of the Jhuggi No. B-323 thereby showing that the Appellant/Claimant was not having a separate electricity connection on the first floor of the Jhuggi No. B-323 regarding which she is claiming allotment from DDA. The Passbook of PNB (Annexure-G) shows that the Appellant/Claimant had opened the account on 05.01.2021, much after the cut off date of 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor.

30. The material placed on file shows that the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 and 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 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. B- 323 regarding which she is claiming allotment from DDA. The documents, Annexure-A to Annexure-L, 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.

31. Accordingly, we have no hesitation in holding that the Appellant / Claimant was not

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having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-323 regarding which she is claiming allotment from DDA and further the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 and 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, which make separate Ration Card a mandatory document for the upper floor.

32. 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. 385/37/93.1/1031 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

33. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 283 of 2023

Date of Institution: 25.11.2022

Date of Order: 25.08.2023

Present: Appellant/ Claimant Mihir Biswas S/o Bhajan Biswas

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-319, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-319 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/60/25.2/1253 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 283 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 14.08.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-319 was found to exist on the second floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 second floor as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Mihir Biswas, has been recorded before us on 14.08.2023 wherein he has stated that his parents, Bhajan & Subhadra, are having two sons, Mahadev & Mihir and one daughter Minti. All the children are married.

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Minti is married with Satyajit and having two children, Gungun & Ria and she is living with her parents in Bhomiheen Camp, Kalkaji. Mahadev is married with Jyoti and having two children; Mayank & Piya. Mihir (Appellant/Claimant) is married with Pinki.

9. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi bearing No. A-319 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that his parents, Bhajan & Subhadra, along with the family of their daughter Minti, is living on the ground floor of the Jhuggi No. A-319 and regarding that DDA has made allotment in favour of his mother Subhadra. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that his brother Mahadev along with his wife Jayati & children is living on the first floor of the Jhuggi No. A-319 and regarding that Mahadev has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 405 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that he along with his wife Pinki is living on the second floor of the Jhuggi No. A-319. The Appellant/Claimant has sought allotment from DDA against the second floor of the said Jhuggi No. A-319 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 283 of 2023 before the Appellate Authority for redressal. 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.

13. It is pointed out that both the appeals bearing Appeal No. 283 of 2023 and Appeal No. 405 of 2023 shall be decided separately on their individual merits.

14. DDA has furnished the survey record along with six video clips pertaining to the Jhuggi No. A-319. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 14.08.2023 wherein he has stated that two video clips pertain to the ground floor of the Jhuggi No. A-319 in which his mother Subhadra is seen and further, her room & kitchen are seen and further a pucca

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staircase constructed outside in the gali and used for going from the ground floor to the first floor is also seen. The next three video clips pertain to the first floor of the Jhuggi No. A-319 in which his brother Mahadev (Appellant/Claimant of appeal No. 405 of 2023) is seen and further, his room & kitchen are also seen and further, a pucca staircase going from the first floor to the second floor is also seen. The sixth video clip pertains to the second floor of the Jhuggi No. A-319 in which his father Bhajan Biswas is seen getting the survey conducted on behalf of Mihir (Appellant/Claimant of appeal No. 283 of 2023) and further, his room is also seen. Furthermore, and Bhajan Biswas is heard saying that Mihir shares joint kitchen with his parents on the ground floor of the said Jhuggi No. A-319. Had Mihir living separately & independently on the second floor then he himself would have got the survey conducted and further no material is placed on file to wriggle out of the statement made by his father at the time of survey that Mihir is having joint kitchen with his parents on the ground floor. This shows that his parents, Bhajan & Subhadra are living on the ground floor of Jhuggi No. A-319 but Mihir (Appellant/Claimant of appeal No. 283 of 2023) is also living jointly with his parents, Bhajan & Subhadra whereas Mahadev (Appellant/Claimant of appeal No. 405 of 2023) is living separately & independently on the first floor of Jhuggi No. A-319.

15. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. A- 319 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and his parents, Bhajan & Subhadra as well as Mihir (Appellant/Claimant of appeal No. 283 of 2023) are living jointly on the ground & second floors of Jhuggi No. A-319 whereas Mahadev (Appellant/Claimant of appeal No. 405 of 2023) is living separately & independently on the first floor of Jhuggi No. A-319.

16. Accordingly, we have no hesitation in holding that the triple storey pucca Jhuggi No. A- 319 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant was not living separately & independently on the second floor of Jhuggi No. A-319 but he was living jointly with his parents, Bhajan & Subhadra in Jhuggi No. A-319 regarding which allotment has already been made in favour of his mother Subhadra and accordingly two allotments are not permissible under the 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

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issued by DDA

17. Now we shall first appraise the material placed on file to determine the eligibility on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

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

19. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. 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 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 he has claimed allotment against the second floor, which is not included in the definition of upper floor and further he 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. 385/60/25.2/1253 dated 07.11.2022.

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

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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 is being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

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

- Passport.
- Ration Card with photograph.

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

21. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

22. It is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative allotment to the dweller living on the first floor also if they

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possess requisite documents. The condition contained in Part–B Para 10 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. 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.

24. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card 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: -

"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.

25. 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

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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 with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

26. 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) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

27. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015

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GIST OF THE POLICY

28. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

29. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further 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.

30. 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 he 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.

31. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

32. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1130475 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2012 (Annexure-J), Voter List of the year 2013 (Annexure-K), Voter List of the year 2014 (Annexure-L), Voter List of the year 2015 (Annexure-M) and Voter List of the year

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2019 (Annexure-N).

33. It is pointed out that the Voter ID Card No. ARE 1130475 (Annexure-A) has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 654 in the Voter List of hate year 2012 (Annexure-J), at Sl. No. 654 in the Voter List of the year 2013 (Annexure-K), at Sl. No. 738 in the Voter List of the year 2014 (Annexure-L), at Sl. No. 835 in the Voter List of the year 2015 (Annexure-M) and at Sl. No. 951 in the Voter List of the year 2019 (Annexure-N). It is also pointed out that the number of the Voter ID Card of the Appellant/Claimant is mentioned to be ARE 1130475. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

34. 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 the second floor of the Jhuggi No. A-319 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the Ration Card (Annexure-I) which has been issued in favour of his mother Subhadra and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. 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 second floor of the Jhuggi No. A-319 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

35. The Appellant/Claimant has tendered his Driving Licence (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Pinki as well as Electricity Bill (Annexure-G) and Passbook of United Bank of India (Annexure-H).

36. It is pointed out that the Driving Licence (Annexure-D) of the Appellant/Claimant has been issued on 07.04.2012. Further, it is also pointed out that the Appellant/Claimant has not tendered the Voter ID Card of his wife Pinki on file. The Electricity Bill (Annexure-G) shows that the electricity connection has been taken by his father Bhajan Biswas on 23.05.2008 thereby showing that the Appellant/Claimant was not

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having a separate electricity connection on the second floor of the Jhuggi No. A-319 regarding which he is claiming allotment from DDA. The Passbook of United Bank of India (Annexure-H) shows that the Appellant/Claimant had opened the account on 15.10.2012. 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 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

37. The material placed on file shows that the Appellant/Claimant was not living separately & independently on the second floor of Jhuggi No. A-319 but he was living jointly with his parents, Bhajan & Subhadra in Jhuggi No. A-319 regarding which allotment has already been made in favour of his mother Subhadra and accordingly two allotments are not permissible under the guidelines issued by DDA and further the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and further he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy. The documents, Annexure-A to Annexure-N, 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.

38. Accordingly, we have no hesitation in holding that the Appellant/Claimant was not living separately & independently on the second floor of Jhuggi No. A-319 but he was living jointly with his parents, Bhajan & Subhadra in Jhuggi No. A-319 regarding which allotment has already been made in favour of his mother Subhadra and accordingly two allotments are not permissible under the guidelines issued by DDA and further the Jhuggi on the second floor bearing No. A-319 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

39. The Appellant/ Claimant has made misrepresentation and also futile attempt to

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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. 385/60/25.2/1253 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

40. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 405 of 2023

Date of Institution: 29.11.2022

Date of Order: 25.08.2023

Present: Appellant/ Claimant Mahadev Biswas S/o Bhajan Biswas

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 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-319, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-319 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No.

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385/60/25.1/1252 on 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 405 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 14.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-Q, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A- 319 was found to exist on the upper floor but he had failed to submit required documents, i.e., a separate Ration Card 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 first floor as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant, Mahadev Biswas, has been recorded before us on 14.08.2023 wherein he has stated that his parents, Bhajan & Subhadra, are having two sons, Mahadev & Mihir and one daughter Minti. All the children are married. Minti is married with Satyajit and having two children, Gungun & Ria and she is living with her parents in Bhomiheen Camp, Kalkaji. Mihir is married with Pinki. Mahadev (Appellant/Claimant) is married with Jyoti and having two children; Mayank & Piya.

9. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi bearing No. A-319 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that his parents, Bhajan & Subhadra, along with the family of their daughter Minti, is living on the ground floor of the Jhuggi No. A-319 and regarding that DDA has made allotment in favour of his mother Subhadra. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that his brother Mihir along with his wife Pinki is living on the second floor of the Jhuggi No. A-319 and regarding that Mihir has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 283 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that he along with his wife Jyoti and children; Mayank & Piya, is living on the first floor of the Jhuggi No. A-319. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-319 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 405 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-Q, in support of his claim and prayed that DDA be directed to make allotment in his favour.

13. It is pointed out that both the appeals bearing Appeal No. 283 of 2023 and Appeal No. 405 of 2023 shall be decided separately on their individual merits.

14. DDA has furnished the survey record along with six video clips pertaining to the Jhuggi

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No. A-319. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 14.08.2023 wherein he has stated that two video clips pertain to the ground floor of the Jhuggi No. A-319 in which his mother Subhadra is seen and further, her room & kitchen are seen and further a pucca staircase constructed outside in the gali and used for going from the ground floor to the first floor is also seen. The next three video clips pertain to the first floor of the Jhuggi No. A-319 in which the Appellant/Claimant, Mahadev, is seen and further, his room & kitchen are also seen and further, a pucca staircase going from the first floor to the second floor is also seen. The sixth video clip pertains to the second floor of the Jhuggi No. A-319 in which his father Bhajan Biswas is seen getting the survey conducted on behalf of Mihir and further, his room is also seen. Furthermore, and he is heard saying that Mihir shares joint kitchen with his parents on the ground floor of the said Jhuggi No. A-319. This shows that his parents, Bhajan & Subhadra, are living on the ground floor of Jhuggi No. A-319 and Mihir (Appellant/Claimant of appeal No. 283 of 2023) is living jointly with his parents whereas Mahadev (Appellant/Claimant of appeal No. 405 of 2023) is living separately & independently on the first floor of Jhuggi No. A-319.

15. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. A- 319 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and his parents, Bhajan & Subhadra, as well as Mihir (Appellant/Claimant of appeal No. 283 of 2023) are living jointly on the ground & second floors of Jhuggi No. A-319 whereas Mahadev (Appellant/Claimant of appeal No. 405 of 2023) is living separately & independently on the first floor of Jhuggi No. A-319 and further the Appellant/Claimant was using the first floor of the said Jhuggi for residential purpose.

16. Accordingly, we have no hesitation in holding that the triple storey pucca Jhuggi No. A-319 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family is using the first floor of the said Jhuggi for residential purpose.

17. Now we shall first appraise the material placed on file to determine as to whether the

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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 Jhuggi No. A-319 as per the policy guidelines issued by DDA.

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

19. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but 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 he 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. 385/60/25.1/1252 on 07.11.2022.

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.

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

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

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

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

21. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

22. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not

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having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

24. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

25. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against first floor of Jhuggi No. A- 319 as per the policy guidelines issued by DDA.

26. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1140003 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2012 (Annexure-M), Voter List of the year 2013 (Annexure-N), Voter List of the year 2014 (Annexure-O), Voter List of the year 2015 (Annexure-P) & Voter List of the year 2019 (Annexure-Q).

27. It is pointed out that the Voter ID Card No. ARE 1140003 (Annexure-A) of the Appellant/Claimant has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. Further, the name of the Appellant/Claimant appears at Sl. No. 481 in the Voter List of the year 2012 (Annexure-M), at Sl. No. 481 in the Voter List of the year 2013 (Annexure-N), at Sl. No. 537 in the Voter List of the year 2014 (Annexure-O), at

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Sl. No. 560 in the Voter List of the year 2015 (Annexure-P) and at Sl. No. 598 in the Voter List of the year 2019 (Annexure-Q). It is also pointed out that in all the Voter Lists of the year 2012, 2013, 2014, 2015 & 2019 (Annexure-M to Annexure-Q), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be ARE 1140003 and it shows that the Appellant/Claimant has been using the said Voter ID Card bearing number ARE 1140003 to cast his vote continuously from 2012 to 2019. Further the address of the Appellant/Claimant is mentioned to be Jhuggi No. A-319 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, we have no hesitation in holding that the Appellant/ Claimant fulfill the eligibility criteria as per the guidelines issued by DDA.

28. The Appellant/Claimant has stated that he was having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-319 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered Ration Cards (Annexure-J & Annexure-L) and Report (Annexure-K) down loaded from Internet. The first Ration Card (Annexure-J) has been issued in favour of his father Bhajan Biswas on 22.08.2002 and the name of the Appellant/Claimant has been mentioned therein. The second Ration Card (Annexure-L) is bearing No. 077002182505 and it has been issued in favour of the Appellant/Claimant on 06.12.2014, much prior to the cut off date i.e. 01.01.2015 and the names of his wife and other family members have been mentioned therein. Furthermore, the Report (Annexure-K) downloaded from the internet shows that the Ration Card No. 077002182505 has been approved by the FSO on 06.12.2014, much prior to the cut off date i.e. 01.01.2015. The material placed on file shows that Ration Card bearing No. 077002182505 (Annexure-L) has been issued in favour of the Appellant/Claimant on 06.12.2014, much prior to the cut off date of 01.01.2015 and this Ration Card has been issued on the address of Jhuggi No. A-319 regarding which the Appellant/Claimant is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

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29. The Appellant/Claimant has tendered his Driving Licence (Annexure-D), Electricity Bill (Annexure-E), Passbook of Union Bank of India (Annexure-F) as well as Voter ID Card No. ARE 1564509 (Annexure-G), Aadhar Card (Annexure-H) & PAN Card (Annexure-I) of his wife Jyoti.

30. It is pointed out that the Driving Licence (Annexure-D) of the Appellant/Claimant has been mentioned to be 14.07.2011, much prior to the cut off date of 01.01.2015. The Electricity Bill (Annexure-E) shows that the electricity connection has been taken by his father Bhajan Biswas on 26.05.2008. The Passbook of Union Bank of India (Annexure-F) shows that the Appellant/Claimant had opened the account on 14.03.2017. The Voter ID Card No. ARE 1564509 (Annexure-G) of his wife Jyoti has been issued on 03.09.2012, much prior to the cut off date of 01.01.2015. It is also pointed out that the above mentioned documents have been issued on the address of Jhuggi No. A-319 regarding which the Appellant/Claimant has been claiming allotment from DDA and further, all the documents also corroborate the statement of the Appellant/Claimant that he along with her family is living on the first floor of the Jhuggi No. A- 319 since long and more specifically on the cut off date of 01.01.2015. This further shows that the Appellant/Claimant is having required documents and he accordingly fulfills the eligibility criteria as per the guidelines issued by DDA.

31. The material placed on file shows that the Appellant/ Claimant was having a valid Voter ID Card & a separate Ration Card, on the cut off date of 01.01.2015, which have been issued on the address of first floor of the Jhuggi No. A- 319 regarding which the Appellant/Claimant is claiming allotment from DDA and further his name also appears in in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. In addition to that the material placed on file has also proved that the Appellant/Claimant has furnished documents, Annexure-A to Annexure-Q, which have been issued on the address of Jhuggi No. A- 319 regarding which the Appellant/Claimant has claimed allotment from DDA thereby showing that he along with his family members has been living continuously and more specifically on the cutoff date of 01.01.2015 on the first floor of the Jhuggi No. A- 319.

32. In the light of our detailed discussion above, we have no hesitation in holding that the Appellant/ Claimant was having all the requisite documents, including Voter ID card &

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separate Ration Card, on the cutoff date of 01.01.2015 and further his name appears in in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Thus we have no hesitation in holding that the Appellant/ Claimant fulfills the eligibility criteria on all the parameters as per the guidelines issued by DDA.

33. In view of our findings above, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/ Claimant fulfills the eligibility criteria as per the guidelines issued by DDA but the Eligibility Determination Committee has wrongly and illegally rejected his claim. Hence the present appeal No. 405 of 2023 stands allowed, hereby, setting aside the impugned order bearing No. 385/60/25.1/1252 on 07.11.2022. DDA is hereby directed to make allotment in favour of Appellant/ Claimant Mahadev Biswas S/o Bhajan Biswas in respect of first floor of the Jhuggi No. A- 319, Bhoomiheen Camp.

34. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 587 of 2023

Date of Institution: 07.12.2022

Date of Order: 25.08.2023

Present: Appellant/Claimant Raja Ram S/o Ram Lal

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-144, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-144 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/27/224.G/921 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 587 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 08.08.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-144 was found to exist but he had failed to submit required documents, i.e., Voter ID Card on the cutoff date of 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 07.11.2022 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 a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. A-144 as per the policy guidelines issued by DDA

8. The statement of the Appellant/Claimant, Raja Ram, has been recorded before us on 08.08.2023 wherein he has stated that he is married with Bimla and having four sons, Dharminder, Virender, Yogesh & Gangaprashad. Yogesh & Gangaprashad are unmarried whereas Dharminder is married with Bimla and Virender is married with Babita. The Appellant/Claimant has stated that his wife Bimla along with all the

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children is living in their native village in District Etah, Uttar Pradesh but he alone is living in a single storey Jhuggi bearing No. A-144, Bhoomiheen Camp, Kalkaji.

9. The Appellant/Claimant has stated that he is living in a single storey Jhuggi bearing No. A-144, Bhoomiheen Camp, Kalkaji and regarding that he has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 587 of 2023 before the Appellate Authority for redressal. The 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.

10. DDA has furnished the survey records of the Jhuggi No. A-144 but the video clips are not available. However, the photographs taken by the survey team are placed on file and the same corroborates the statement of the Appellant/Claimant that Jhuggi No. A-144 is a single storey structure and the Appellant/Claimant was found to be living there by the survey team. Thus the statement of the Appellant/Claimant as well as the survey records/photographs has duly proved that a single storey Jhuggi No. A-144 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and it has been used for residential purposes by the Appellant/ Claimant Raja Ram.

11. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. A-144 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the said Jhuggi for residential purposes.

12. 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, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. A-144 as per the policy guidelines issued by DDA.

13. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The 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.

14. 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.

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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."

15. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and 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.

16. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. A-144 as per the policy guidelines issued by DDA.

17. The Appellant/Claimant has tendered his Voter ID Card No. DL/04/046/045678 (Annexure-A) and Aadhar Card (Annexure-B).

18. It is pointed out that the Voter ID Card No. DL/04/046/045678 (Annexure-A) has been issued on 2.02.2008, much prior to the cut off date of 01.01.2015. However, the Appellant/Claimant has not tendered any Voter Lists on file to show that he had used

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the Voter ID Card No. DL/04/046/045678 to cast his vote in any of the years and more specifically from the years 2012 to the year 2019. This also shows that the Voter ID Card No. DL/04/046/045678 (Annexure-A) might have also been cancelled by the election commission for having not used after its issuance. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut-off date of 01.01.2015 and his 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. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

19. The Appellant/Claimant has tendered Ration Card (Annexure-C) and LPG Connection (Annexure-D).

20. It is pointed out that the Ration Card (Annexure-C), has been issued on 26.12.1997 and the name of the Appellant/Claimant is mentioned but the name of other family members is not mentioned. It has already been pointed out that the Appellant/Claimant has specifically stated that his wife and the children are living in his native village in District Etah, Uttar Pradesh. Further, the LPG Connection (Annexure-D) shows that he had taken the electricity connection on 20.06.1999. 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 cut-off date of 01.01.2015 and his 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.

21. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card on the cut-off date of 01.01.2015 and his 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. The documents, Annexure-A to Annexure-D, 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.

22. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut-off date of 01.01.2015 and 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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& of the year of survey. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

23. 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. 385/27/224.G/921 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

24. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 653 of 2023

Date of Institution: 10.01.2022

Date of Order: 25.08.2023

Present: Appellant/ Claimant Pooja D/o Satyanarayan W/o Uttam Roy

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 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. B-350, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-350 was found to exist on the upper floor 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

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the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/36/103.1/987 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 653 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 10.08.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-350 was found to exist on the upper floor but she had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified//No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in 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 whether she is entitled to claim allotment against the first floor of Jhuggi No. B-350 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Pooja, has been recorded before us on 10.08.2023 wherein she has stated that her parents, Sat Narayan & Ram Mani, are having two sons, Manoj & Sanjay and three daughters, Pooja, Sushila & Nisha. Ram Mani had expired in the year 2007. All the children except Sanjay are married. Manoj is married with Anjali and having three children, Veer, Ankit & Ankita. Sushila is married with Kartik and she is living in her matrimonial home in Bhoomiheen Camp, Kalkaji. Nisha is married with Prakash and having two children and she is living in her matrimonial home in Reva, Madhya Pradesh. Pooja (Appellant/Claimant) is married with Uttam and having one daughter, Harshita and living with her parents in Bhoomiheen Camp, Kalkaji.

9. The Appellant/Claimant has stated that her parents, Satyarayan & Ram Mani, are having a double storey Jhuggi No. B-350 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that her father Satyarayan along with his unmarried son Sanjay and the family of Manoj is living on the ground floor of the Jhuggi No. B-350 and regarding that DDA has made allotment in favour of his brother Manoj. These facts are not disputed by DDA

11. The Appellant/Claimant has stated that she along with her husband Uttam and daughter Harshita is living on the first floor of the Jhuggi No. B-350. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. B-350 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 653 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-H, in support of her claim and prayed that DDA be directed to make allotment in her favour.

12. DDA has furnished the survey record along with five video clips pertaining to Jhuggi No. B-350. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 10.08.2023 wherein the Appellant/Claimant has stated that the three

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video clips pertain to the ground floor of the Jhuggi No. B-350 in which her sister-in-law Anjali W/o Manoj is seen and further her room & kitchen are also seen. The next two video clips pertain to the first floor of the Jhuggi No. B-350 in which the Appellant/Claimant is seen and further, her room & kitchen are also seen. 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-350 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by her brother Manoj and the first floor is used for residential purposes by the Appellant/Claimant Pooja.

13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-350 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

14. Now we shall first appraise the material placed on file to determine the eligibility on other parameters 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 the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi No. B-350 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 cut -off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut- off date of

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01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA as 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. 385/36/103.1/987 dated 07.11.2022.

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.

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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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for

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allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

22. 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

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documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi No. B-350 as per the policy guidelines issued by DDA

23. The Appellant/Claimant has tendered her Voter ID Card No. ARE 2056140 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter List of the year 2019 (Annexure-H).

24. It is pointed out that the Voter ID Card No. ARE 2056140 (Annexure-A) has been issued on 20.06.2015, much after the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 772 in the Voter List of the year 2019 (Annexure-H). The Voter ID Card No. ARE 2056140 (Annexure-A) has been issued on 20.06.2015, much after the cutoff date 01.01.2015 and accordingly the question of her name appearing in the Voter List of the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015) does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 and her name appears in the Voter List of the year 2019 but her name does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015), therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

25. The Appellant/Claimant has stated that she 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. B-350 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered two Ration Cards (Annexure-E & Annexure-F). The first Ration Card (Annexure-E) has been issued in favour of her mother Ram Mani on 01.06.2007 and the name of the Appellant/Claimant is mentioned in this Ration Card. The new Ration Card (Annexure-F) has been issued in favour her sister-in-law Anjali W/o Manoj and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. 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. B- 350 regarding

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which she 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

26. The Appellant/ Claimant has tendered the Pass Book of United Bank Of India (Annexure- D) and Electricity Bill (Annexure-G).

27. It is pointed out that the Pass Book of United Bank Of India (Annexure- D) shows that the bank account was opened by the Appellant /Claimant on 08.04.2019, much after the cutoff date of 01.01.2015. The Electricity Bill (Annexure-G) shows that the electricity connection was taken by her father Satyanarayan on 31.05.2008 on the ground floor of Jhuggi No. B- 350 thereby showing that the was not having separate electricity connection on the address of the first floor of Jhuggi No. B- 350 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 separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor.

28. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B- 350 regarding which she is claiming allotment from DDA and further the name of the Appellant/ Claimant does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). The documents, Annexure-A to Annexure-H, 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.

29. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-350 regarding which she is claiming allotment from DDA and further she has not tendered the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). Therefore, the

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Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

30. 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. 385/36/103.1/987dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

31. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 695 of 2023

Date of Institution: 31.01.2023

Date of Order: 25.08.2023

Present: Appellant/Claimant Ravi Kumar S/o Radhey Shyam

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-455, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-455 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/26/124.1/880 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by

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the same, the present Appeal No. 695 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 08.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-F, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-455 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card not verified / / No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DDA

8. The statement of the Appellant/Claimant, Ravi Kumar, has been recorded before us on 08.08.2023 wherein he has stated that his parents, Radhey Shyam & Lalita, are having

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two sons; Ravi & Shankar and two daughters; Savita & Jyoti. Shankar & Savita are unmarried. Jyoti is married with Pradip and she is living in her matrimonial home in Govindpuri, Delhi. Ravi (Appellant/Claimant) is married with Hashi and having one son Avinash.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi bearing No. B-455 and it comprises of one room on each floor and a bamboo ladder has been placed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that his parents, Radhey Shyam & Lalita, along with their unmarried children; Shankar & Savita, are living on the ground floor of the Jhuggi No. B-455 and regarding that DDA has made allotment in favour of his mother Lalita. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Hashi and son Avinash is living on the first floor of the Jhuggi No. B-455. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. B-455 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 695 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-F, in support of his claim and prayed that DDA be directed to make allotment in favour of his claim.

12. DDA has furnished the survey records along with four video clip of the Jhuggi No. B-455. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 08.08.2023 wherein the Appellant/Claimant has stated that two video clips pertain to the ground floor of the Jhuggi No. B-455 in which his mother Lalita is seen and further, her room & kitchen are seen. The next two video clips pertain to the first floor of the said Jhuggi No. B-455 in which his sister Jyoti is seen getting the survey conducted on behalf of the present Appellant/Claimant and further, his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. B-455 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by his mother, Lalita, whereas the first floor is used for residential purposes by the Appellant/ Claimant.

13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-455

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Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & 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 as per the policy guidelines issued by DDA.

15. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-F, in support of her 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 separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/26/124.1/880 dated 07.11.2022.

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.

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

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

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

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having

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any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

22. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

23. The Appellant/Claimant has tendered his Voter ID Card No. ARE 2520831 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter List of the year 2014 (Annexure-F).

24. It is pointed out that the Voter ID Card No. ARE 2520831 (Annexure-A) has been issued on 28.07.2020, much after the cut off date of 01.01.2015. It is pointed out that the name of the Appellant/Claimant appears at Sl. No. 30 in the Voter List of the year 2014 (Annexure-F) and in that Voter List his number of the Voter ID Card is reflected to be ARE 1464625 but his Voter ID Card has not been placed on file and accordingly, the date of issuance cannot be ascertained. Neither the Voter ID Card No. ARE 1464625 nor any of the Voter List except the Voter List of the year 2014 (Annexure-F) has been

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tendered to show that the Appellant/Claimant had used any of his Voter ID Cards to cast his vote in the years 2012, 2013 and 2015 (prior to 01-01-2015) & of the year of survey. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card No. ARE 1464625 (not tendered) on the cut-off date of 01.01.2015 and his name also appears in the voter list of the year's 2014 but no Voter List of the years 2012, 2013 and 2015 (prior to 01-01-2015) & of the year of survey have been tendered. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

25. 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. B-455 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered Ration Card (Annexure-D), which has been issued on 07.10.2014 in favour of his mother, Lalita, and the name of the Appellant/Claimant has been mentioned. 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 Jhuggi No. B-455. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

26. The Appellant/Claimant has tendered his Electricity Bill (Annexure-D), which shows that the electricity connection has been taken by his father, Radhey Shyam, on 31.05.2008 on the ground floor of the Jhuggi No. B-455 thereby showing that the Appellant/Claimant was not having an electricity connection on the first floor of the Jhuggi No. B-455 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned document is of no help to the Appellant/Claimant because these document does 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 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.

27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-F, 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

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per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

28. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-455 regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the years 2012, 2013 and 2015 (prior to 01-01-2015) & of the year of survey. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

29. 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. 385/26/124.1/880 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

30. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 142 of 2022

Date of Institution:22.11.2022

Date of Order: 28.08.2023

Present: Appellant/ Claimant Sukhdev Mandal S/o Gour Mandal

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 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-220, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-220 was found to exist on the upper floor 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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Bhoomiheen Camp, duly communicated its order bearing No. 385/67/051.1.1/1525 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 142 of 2022 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 10.08.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-220 was found to exist on the first floor but he had failed to submit required documents, i.e., Voter ID Card & separate Ration Card 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of Jhuggi bearing No. A-220 as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant, Sukhdev Mandal, has been recorded before us on 10.08.2023 wherein he has stated that his parents, Gour Mandal & Shikha, are having two sons, Subhajit & Sukhdev. Subhajit is married with Riya. Sukhdev (Appellant/Claimant) is married with Nilima and having two children, Sun & Some.

9. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi bearing No. A-220 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that his parents, Gour Mandal & Shikha, are living on the ground floor of the Jhuggi No. A-220 and regarding that DDA has made allotment in favour of Shikha. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that his brother Subhajit along with his wife Riya is living on the second floor of the Jhuggi No. A-220 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the Appeal No. 708 of 2023 before the Appellate Authority for redressal but his Appeal has been dismissed on 08.08.2023 by the Appellate Authority. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated further stated that he along with his wife Nilima and both the children, Sun & Some, is living on the first floor of the Jhuggi No. A-220. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-220 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 142 of 2022 before the Appellate Authority for redressal. 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.

13. DDA has furnished the survey record along with six video clips pertaining to Jhuggi No. A-220. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 10.08.2023 wherein the Appellant/Claimant has stated that the first video clips pertains to the ground floor of Jhuggi No. A-220 in which his mother Sikha is seen on the ground floor and her room & kitchen are also seen. The next two videos pertain to the first floor of Jhuggi No. A-220 in which the Appellant/Claimant Sukhdev is

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seen and further his room & kitchen are also seen. The next three videos pertain to the second floor of Jhuggi No. A-220 in which his brother Subhajit is seen and further his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that triple storey Jhuggi No. A-220 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and on the ground floor his parents, Gour Mandal & Shikha are living whereas the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes and his brother Subhajit was using the second floor of the said Jhuggi for residential purposes.

14. Accordingly, we have no hesitation in holding that the Jhuggi No. A-220 in Bhoomiheen Camp is a pucca triple storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further, the Appellant/ Claimant & his family is living on the first floor of the said Jhuggi.

15. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of the Jhuggi No. A-220 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 cut off date of 01.01.2015. In the present appeal 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 his name

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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. 385/67/051.1.1/1525 dated 07.11.2022.

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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

19. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

20. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

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

21. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

22. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DDA.

24. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1585819 (Annexure-A),

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Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-L) and Voter List of the year 2019 (Annexure-M).

25. It is pointed out that the Voter ID Card No. ARE 1585819 (Annexure-A) has been issued on 18.01.2013, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 45 in the Voter List of the year 2014 (Annexure-L) and at Sl. No. 107 in the Voter List of the year 2019 (Annexure-M). The Appellant/Claimant has not tendered any voter list to show that he had used the Voter ID Card ARE 1585819 (Annexure-A) to cast vote in the year's 2012, 2013 and 2015 (prior to 01-01-2015). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut-off date of 01.01.2015 and his name appear in the voter list of the year's 2014 and 2019 but his name does not appear in the Voter List of the year's 2012, 2013 and 2015 (prior to 01-01-2015). Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

26. 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. A-220 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered three Ration Card (Annexure-G to Annexure-I). The old Ration Card (Annexure-H) has been issued in favour of his father Gaur Mandal on 01.03.2005 and the name of the Appellant/Claimant is mentioned. The second Ration Card (Annexure-H) has been issued in favour of his father Gaur Mandal on 03.04.2010 but the name of the Appellant/Claimant is not mentioned. The third Ration Card (Annexure-I) has been issued in favour of his mother Sikha Mandal on 31.10.2014 and the name of the Appellant/Claimant is mentioned. 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 the first floor of Jhuggi No. A-220. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

27. The Appellant/Claimant has tendered the Voter ID Card No. ARE 2521029 (Annexure-D) & Aadhar Card (Annexure-E) of his wife Neelima, the Electricity Bill (Annexure-F), Driving License (Annexure-J) and the Passbook of PNB (Annexure-K).

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28. It is pointed out that the Voter ID Card No. ARE 2521029 (Annexure-D) of his wife Neelima has been issued on 28.07.2020, much after the cutoff date 01.01.2015. The Electricity Bill (Annexure-F) shows that the electricity connection has been taken by his father Gaur Mandal on 11.06.2008 on the ground floor of the Jhuggi No. A-220 thereby showing that the Appellant/Claimant was not having separate electricity connection on the first floor of the Jhuggi No. A-220 regarding which he is claiming allotment from DDA. It is pointed out that the Driving License (Annexure-J) of the Appellant/Claimant has been issued on 01.10.2016, much after the cutoff date 01.01.2015. The Passbook of PNB (Annexure-K) shows that the Appellant/Claimant had opened the account on 27.08.2015, 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 because these document 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 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.

29. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in the Voter List of the year's 2012, 2013 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents, Annexure-A to Annexure-M, 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 separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

30. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-314 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 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, which make separate Ration Card a mandatory document for the upper floor.

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31. 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. 385/67/051.1.1/1525 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

32. 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.

28/8/2023

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

28/8/2023

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

28/8/2023

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 187 of 2022

Date of Institution: 23.11.2022

Date of Order: 28.08.2023

Present: Appellant/Claimant Dal Chand S/o Shyam Lal

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-302, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-302 was found to exist on the ground floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/45/0019.G/1107 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by

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the same, the present Appeal No. 187 of 2022 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 18.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-302 was found to exist on the ground floor but he had failed to submit required documents, i.e., Voter ID Card etc. on the cutoff date of 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 07.11.2022 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 a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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-302 as per the policy guidelines issued by DDA

8. The statement of the Appellant/Claimant, Dal Chand, has been recorded before us on 18.08.2023 wherein he has stated that he is married with Vimla and having two sons, Kamal Kishor & Sanju and two daughters, Guddi & Sheela. All the children are married.

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Guddi is married with Hari and Sheela is married with Bunty and they are living in their respective matrimonial homes in Itawa, Uttar Pradesh and Agra, Uttar Pradesh. Sanju is married with Asha and having five children, Vishal, Varsha, Neetu. Ria & Puja. Kamal Kishor is married with Baby and having two children, Tarun & Deepika.

9. The Appellant/Claimant has stated that he is having a double storey Jhuggi No. A-302 and it comprised of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that he along with his wife Vimla is living on the ground floor of the Jhuggi No. A-302 whereas Kamal Kishor and Sanju along with their respective family are living on the first floor. The Appellant/Claimant has sought allotment from DDA against the said double storey Jhuggi No. A-302 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 187 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-I, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished the survey record along with two video clips pertaining to Jhuggi No. A-302. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 18.08.2023 wherein the Appellant/Claimant has stated that both the video clips pertain to the ground floor in which the Appellant/Claimant is seen. However, the video of the first floor was not prepared. However, there is nothing to disbelieve the statement of the Appellant/Claimant that his Jhuggi No. A-302 is a double storey structure. Thus the statement of the Appellant/Claimant as well as the survey records/ video clips / photographs has duly proved that double storey Jhuggi No. A-302 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and it has been used for residential purposes by the Appellant/ Claimant Raja Ram.

12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-302 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the said Jhuggi for residential purposes.

13. 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,

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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-302 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-I, 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**
> **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."

16. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and 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.

17. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. A-302 as per the policy guidelines issued by DDA.

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18. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C) and PAN Card (Annexure-D).

19. It is pointed out that the Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B). The first Voter ID Card No. ARE 1151601 (Annexure-A) has been issued on 22.04.2010, much prior to the cutoff date 01.01.2015 whereas the second Voter ID Card bearing number ARE 2544112 (Annexure-B) has been issued on 14.02.2021, much after the cutoff date 01.01.2015. However, it is pointed out that the Appellant/Claimant has failed to explain the reasons for having got two Voter ID Cards issued in his favour.

20. Furthermore, the Appellant/Claimant has also not tendered Voter Lists to show that he had ever used either of the above mentioned Voter ID Cards (Annexure-A & Annexure-B) to cast vote in any years and more specifically from the years 2012 to 2019. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut-off date of 01.01.2015 but his name 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. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

21. The Appellant/Claimant has tendered the Voter ID Card No. ARE 2589885 (Annexure-E) & Aadhar Card (Annexure-F) of his wife Vimla, Ration Card (Annexure-G), Electricity Bill (Annexure-H) and Cast Certificate (Annexure-I).

22. It is pointed out that the Voter ID Card No. ARE 2589885 (Annexure-E) of his wife Vimla has been issued on 19.03.2022, much after the cutoff date 01.01.2015. It is again pointed out that as is case is with the present Appellant/Claimant no Voter Lists has been placed on file to show that his wife Vimla had also used the Voter ID Card No. ARE 2589885 (Annexure-E), to cast her vote. This creates doubt and suspicion. The Appellant/Claimant has tendered Ration Card (Annexure-G), which has been issued in his favour 26.10.2004. The Electricity Bill (Annexure-H) shows that the Appellant/Claimant had taken electricity connection on 10.06.2008 and further, the Cast Certificate (Annexure-I) has been issued on 07.06.2019. It is pointed out that the above-mentioned documents are of no help to the

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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 name of the Appellant/ Claimant does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

23. The material placed on file shows that the name of the Appellant/ Claimant does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey. The documents, Annexure-A to Annexure-I, are of no help to the him because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the name of the Appellant/ Claimant does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

24. 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. 385/45/0019.G/1107 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

25. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 206 of 2023

Date of Institution: 23.11.2022

Date of Order: 28.08.2023

Present: Appellant/ Claimant Ram Chet (since deceased) S/o Khakannu through his legal heir, Asha (wife)

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-559, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-559 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal

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Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/63/70.1/1389 dated 07.11.2022 to the legal heir of the present Appellant/ Claimant, who has since died on 14.10.2021. Aggrieved by the same, the present Appeal No. 206 of 2023 has been filed by his legal heir, Asha (wife).

3. In response to the notice, Asha (wife), legal heir of the present Appellant/ Claimant, Ram Chet (since deceased) S/o Khakannu has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of Asha (wife) has been recorded before us on 24.07.2023 and she has tendered documents, Annexure- A to Annexure- Z and Annexure-Z-1 to Annexure-Z-3, in support of the claim of the Appellant/ Claimant, Ram Chet (since deceased). DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by Asha (wife), legal heir of the present Appellant/ Claimant, Ram Chet (since deceased) as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-559 was found to exist on the first floor but he had failed to submit required documents, i.e., 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 the legal heir of the present Appellant/ Claimant, who has since died on 14.10.2021, by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the present Appeal No. 206 of 2023 has been filed by his legal heir, Asha (wife).

7. It is argued on behalf of the Appellant/ Claimant, Ram Chet (since deceased) that the entire double storey Jhuggi No. C-559 belongs to him but the family of his brother Kamal had lived on the first floor of Jhuggi No. C-559 for short period and after

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sometime Kamal along with his family had shifted from there to live on rent and thereafter on the cutoff date of 01.01.2015 the entire double storey Jhuggi No. C-559 has been used by the Appellant/ Claimant, Ram Chet (since deceased) and his family for residential purposes but in the survey record it has been wrongly mentioned that the Jhuggi No. C-559 of the Appellant/ Claimant, Ram Chet (since deceased) was found on the upper floor. The Appellant/ Claimant, Ram Chet (since deceased) fulfills the eligibility criteria and also has all the requisite documents pertaining to Jhuggi No. C-559 but his claim has been wrongly rejected.

8. 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, Ram Chet (since deceased), was living in the double storey Jhuggi No. C-559 or he was living on its upper floor and having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 the Appellant/ Claimant Ram Chet (since deceased) is entitled to claim allotment against the double storey Jhuggi bearing No. C-559 as per the policy guidelines issued by DDA.

9. The statement of Asha, who is the widow of the Appellant/ Claimant Ram Chet (since deceased),has been recorded before us on 24.07.2023, wherein she has stated that her husband Ram Chet had died on 14.10.2021 and his Death Certificate is (Annexure-L). Ram Chet was having three brothers, namely, Kaml, Ambika & Chandrika and one sister Manbhawati. Manbhawati is married with Akshay Lal and she is living in her matrimonial home in Azamgarh, Uttar Pradesh. Chandrika is married with Gita and having three children Vishal, Vivek & Shreya and he is living on rent in Sangam Vihar, Delhi. Ambika is married with Sangeeta and having two sons Amkit & Aman and he is living in Jhuggi No. C-562 in Bhoomiheen Camp but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the Appeal No. 593 of 2023 before the Appellate Authority for redressal but his appeal has also been rejected by the Appellate Authority on 07.12.2022.

10. Asha has stated that Kamal is married with Basmati and having three children, Rajan,

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Kajal, & Himanshi. Ram Chet (Appellant/Claimant) was married with Asha and having four children, Amar, Rohit, Anjana & Sudha. All the children except Anjana are unmarried. Anjana is married with Rahul and she is living in her matrimonial home in Azamgarh, Uttar Pradesh.

11. Asha has stated that her family is having a double storey Jhuggi No. C-559, and it comprises of one room on each floor and a bamboo ladder is placed outside in the gali for going to the upper floor. Previously her husband Ram Chet (until his death on 14.10.2021) along with his wife Asha and all the four children, Amar, Rohit, Anjana & Sudha was living on the ground floor of the Jhuggi No. C-559 whereas his brother Kamal along with his wife Basmati and children was living on the first floor of the Jhuggi No. C-559 but afterwards Kamal had shifted to live on rent in Sangam Vihar, Delhi and since then the family of Ram Chet is using the said double storey Jhuggi for residential purposes.

12. Asha has stated that her husband Ram Chet (until his death on 14.10.2021) along with his wife Asha and all the four children, Amar, Rohit, Anjana & Sudha is living in the double storey Jhuggi No. C-559. The Appellant/ Claimant Ram Chet (since deceased) has sought allotment against the Jhuggi No. C-559 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same the present Appeal No. 206 of 2023 has been filed by his legal heir, Asha (wife) before the Appellate Authority for redressal. Asha has tendered document, Annexure- A to Annexure- Z and Annexure-Z-1 to Annexure-Z-3, in support of his claim and prayed that DDA be directed to make allotment in favour of the Appellant/ Claimant Ram Chet (since deceased).

13. Asha has stated that Basmati W/o Kamal due to lust and greed had entered into a conspiracy to claim allotment against the first floor of the Jhuggi No. C-559 and by playing fraud and misrepresentation, Basmati had even managed to get the survey conducted against the first floor of the Jhuggi No. C-559 in spite of the fact that Ram Chet and other family members objected to the same. The claim of Basmati against the first floor of the Jhuggi No. C-559 was also rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the Appeal No. 344 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

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14. Asha has stated that she had made complaint (Annexure-Z-2) to DDA but no action was taken and accordingly she was forced to make a complaint to Police. The complaint (Annexure-W) was made to SHO, Govindpuri, Complaint (Annexure-X) was made to ACP, Kalkaji and Complaint (Annexure-Y) was made to DCP, South Delhi.

15. Asha has stated that Basmati had also succeeded in getting Ration Card issued in her favour of address of Jhuggi No. C-559 and accordingly a complaint (Annexure-Z) was made to FSO for cancellation of the Ration Card and accordingly vide order (Annexure-Z-1) the FSO had directed Basmati to get her address changedon the ration card from Jhuggi No. C-559 to her correct address.

16. It is pointed out that both the Appeals bearing number Appeal No. 206 of 2023 and Appeal No. 344 of 2023 shall be decided separately on their individual merit.

17. DDA has furnished the survey record along with four video clips pertaining to Jhuggi No. C-559. The video clips were played before Asha when her statement was recorded before us on 24.07.2023 wherein she has stated that the two video clips pertain to the ground floor in which Asha W/o the Appellant/ Claimant Ram Chet (since deceased) is seen getting survey conducted on behalf of the her husband Ram Chet (since deceased) and heard stating that Ram Chet had since died and children are living on the first floor and further, she is holding a slate in her hand in which **"RAM CHET C-559/G"** has been written. In the next two video clips, Basmati W/o Kamal is seen on the first floor of Jhuggi No. C-559 and room & kitchen are seen and further she is seen holding a slate on which **"BASMATI C-559/F"** has been written and further she is also heard stating that she is having three children and they are living on rent somewhere. The admission of Basmati W/o Kamal shows that she was not living on the first floor of Jhuggi No. C-559 but somehow she managed to get the survey conducted but her statement brings the truth. Asha has made complaints to DDA and police. Accordingly merely the said Basmati W/o Kamal managing to get survey conducted on the first floor of Jhuggi No. C-559 does not mar the right of the Appellant/ Claimant Ram Chet (since deceased).

18. Asha has also tendered a Pen Drive (Annexure-Z-3) containing the video clips of the Jhuggi No. C-559 which was played before her when her statement was recorded before us on 24.07.2023 wherein she has stated that in the video clips the double

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storey Jhuggi No. C-559 is clearly seen to be comprised of one room on each floor and a bamboo ladder is placed outside in the gali for going to the upper floor. Further a room & kitchen are seen on the ground floor and one room having study table & bed and having roof made with Asbestos sheets is also seen on the first floor.

19. The video clip prepared by the survey team in which Basmati W/o Kamal is clearly heard of making statement that she was not living on the first floor of Jhuggi No. C-559 but was living on rent at some other place is clincher piece of evidence and it corroborates the statement of Asha that Kamal along with his wife Basmati and children had lived on the first floor of the Jhuggi No. C-559 for a short period of time and thereafter the entire family had shifted to live on rent in Sangam Vihar, Delhi. However, Basmati W/o Kamal had got the survey conducted by playing fraud and misrepresentation in order to claim allotment from DDA against the first floor of Jhuggi No. C-559 by hook or crook. However, Ram Chet and his wife Asha had objected to the survey conducted by Basmati for claiming allotment against the first floor of the Jhuggi No. C-559, which belongs to Ram Chet (since deceased) & his family. This fact is also corroborated by the fact that Asha had made complaint (Annexure-Z-2) to DDA but no action was taken and she was forced to make complaints to the Police. The complaint (Annexure-W) was made to SHO, Govindpuri, Complaint (Annexure-X) was made to ACP, Kalkaji and Complaint (Annexure-Y) was made to DCP, South Delhi.

20. The material placed on file also shows that the said Basmati W/o Kamal had also succeeded in getting Ration Card issued in her favour on the address of Jhuggi No. C-559 and a complaint (Annexure-Z) was made to FSO for cancellation of the Ration Card and accordingly vide order (Annexure- Z-1) the FSO had directed Basmati to get her address changed from Jhuggi No. C-559 to her correct address. It is not disputed that the claim of Basmati against the first floor of the Jhuggi No. C-559 has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the Appeal No. 344 of 2023 before the Appellate Authority for redressal.

21. The video clips prepared by the survey team at the time of survey shows that the family of the Appellant/ Claimant Ram Chet (since deceased) was living on the ground floor of Jhuggi No. C-559 and the survey was got conducted by his wife Asha. Whereas Basmati W/o Kamal had got conducted survey on the first floor of Jhuggi No. C-559 but

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her statement made at the time of survey shows that Basmati and her family was not living there but they were living at some other place on rent but somehow she had managed to get the survey conducted. This shows that in fact the Appellant/ Claimant Ram Chet (since deceased) was living in the double storey Jhuggi No. C-559.

22. The Pen Drive (Annexure-Z-3) furnished by Asha also corroborates her statement that they were living on the ground floor of the Jhuggi No. C-559 and not on its upper floor. Thus the video clips prepared by the survey team at the time of survey shows that the Appellant/ Claimant Ram Chet (since deceased) & his family were living on the ground floor of Jhuggi No. C-559 but it seems that due to clerical/typographical mistake in the survey records it was wrongly mentioned that the Appellant/ Claimant Ram Chet (since deceased) was living on the upper floor of Jhuggi No. C-559.

23. This accordingly shows that the double storey Jhuggi No. C-559 is a single dwelling unit and it comprises of one room & kitchen on the ground floor & a room on the first floor and a bamboo ladder is placed outside in the gali for going to the upper floor and the Appellant/ Claimant Ram Chet (since deceased) & his family have been using the double storey Jhuggi No. C-559 for residential purposes. Therefore, the parameters of ground floor and not that of upper floor are applicable to determine the eligibility of the Appellant/ Claimant Ram Chet (since deceased)

24. It is pointed out that the survey team has prepared the survey report annexed with this file thereby showing that the last survey was conducted on 23.08.2019 of the Jhuggi of the Appellant/ Claimant Ram Chet (since deceased) and his wife Asha, daughter Sudha Prajapati & Amar prajapati, were found to be living with him as per the Family Member Details given therein and further it has made a remark **"First floor family member present. Enki mother ka koi ID nahi Hai"** *(the spelling and formation of sentence ignored by us)*and it corroborates that the Appellant/Claimant along with his family, which comprised of his wife Asha, daughter Sudha Prajapati & Amar prajapati, was found to living in the Jhuggi No. C-559, Bhoomiheen Camp.

25. At the very outset it is pointed out that in Para No. 1 of the proceedings conducted by EDC it is pointed out that in the survey records of DDA it is mentioned that the upper floor Jhuggi of the Appellant/Claimant was found to exist. But there seems to be some

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clerical/typographical mistake because in the survey records placed before us along with the video clips/photographs prepared by the survey team and also the Pen Drive (Annexure-Z-3) furnished by Asha shows that the Appellant/ Claimant Ram Chet (since deceased) along with his family was living on the ground floor and further his family was also living on the first floor but one Basmati had somehow managed to get the survey conducted on the first floor but in the survey report it is mentioned that the Appellant/Claimant along with his family, which comprised of his wife Asha, daughter Sudha Prajapati & Amar prajapati, was also found to be living on the first floor of the Jhuggi No. C-559, Bhoomiheen Camp and it was also found to be used for "residential purposes". Thus the statement of the Appellant/Claimant as well as the video clips furnished by DDA and the Pen Drive (Annexure-Z-3) as well as the survey records placed before us along with the photographs prepared by the survey team shows that the Jhuggi of the Appellant/Claimant regarding which survey was conducted by DDA's Survey Team is a double storey Jhuggi and the Appellant/ Claimant Ram Chet (since deceased) along with his family, which comprised of his wife Asha, daughter Sudha Prajapati & Amar prajapati, was found to living in the double storey Jhuggi No. C-559, Bhoomiheen Camp and using the said Jhuggi for residential purposes.

26. There is nothing to disbelieve the statement of Asha that Jhuggi No. C-559, Bhoomiheen Camp is a double storey structure and it comprises of one room & kitchen on the ground floor and one room on the first floor and bamboo ladder has been placed outside in the gali for going to the upper floor. Thus the statement of Asha as well as the survey records/video clips has duly proved that the Jhuggi No. C-559 of the Appellant/Claimant is a double storey structure and it was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and it is used by the Appellant/ Claimant & his family for residential purposes and accordingly both the floors of the said Jhuggi No. C-559 constitutes single dwelling unit.

27. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/ Claimant Ram Chet (since deceased). As per our discussion above, the Jhuggi No. C-559 of the Appellant/Claimant is found to be a double storey structure and it comprises of one room & kitchen on the ground floor and one room on the first floor and bamboo ladder has been placed outside in the gali for going to the

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upper floor and the Appellant/ Claimant & his family has been using the Jhuggi No. C-559 for residential purposes and accordingly both the floors of the said Jhuggi No. C-559 constitutes single dwelling unit on the cut off date of 01.01.2015 and accordingly the parameters for the ground floor are applicable.

28. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the present Appellant/ Claimant Ram Chet (since deceased) was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi bearing No. C-559 as per the policy guidelines issued by DDA.

29. Asha has stated that the claim of the present Appellant/ Claimant Ram Chet (since deceased) has been wrongly rejected by DDA. He has tendered documents, Annexure-A to Annexure-Z and Annexure-Z-1 to Annexure-Z-3, in support of his claim and prayed that DDA be directed to make allotment in favour of the present Appellant/ Claimant Ram Chet (since deceased).

30. 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."

31. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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-

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2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and 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.

32. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the present Appellant/ Claimant Ram Chet (since deceased) was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi bearing No. C-559 as per the policy guidelines issued by DDA.

33. Asha has tendered his two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), Voter List of the year 2012 (Annexure-Q), Voter List of the year 2013 (Annexure-R), Voter List of the year 2014 (Annexure-S), Voter List of the year 2015 (Annexure-T), Voter List of the year 2018 (Annexure-U) and Voter List of the year 2019(Annexure-V).

34. It is pointed out that the two Voter ID Cards (Annexure-A & Annexure-B) of the Appellant/Claimant Ram Chet (since deceased) have been placed on file. The first Voter ID Card No. DL/03/035/252877 (Annexure-A) has been issued on 08.08.2011, much prior to the cutoff date 01.01.2015. The second Voter ID Card No. ARE 2313369 (Annexure-B) has been issued on 18.11.2019, much after the cutoff date of 01.01.2015. Asha has explained the reasons for having two Voter ID Cards by her husband as she has specifically stated that the first Voter ID Card No. DL/03/035/252877 (Annexure-A) of her husband Ram Chet was discontinued by the Election Commission and in its place new Voter ID Card bearing No. ARE 2313369 (Annexure-B) was issued in his favour in the year 2019.

35. It is also pointed out that the name of the Appellant/Claimant Ram Chet (since deceased) appears at Sl. No. 378 in the Voter List of the year 2012 (Annexure-Q), at Sl. No. 378 in the Voter List of the year 2013 (Annexure-R), at Sl. No. 338 in the Voter List

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of the year 2014 (Annexure-S), at Sl. No. 345 in the Voter List of the year 2015 (Annexure-T), at Sl. No. 354 in the Voter List of the year 2018 (Annexure-U) and at Sl. No. 341 in the Voter List of the year 2019 (Annexure-V). In all the voter lists (Annexure-Q to Annexure-V) the number of the Voter ID Card of the Appellant/Claimant is mentioned to be bearing No. DL/03/035/252877 (Annexure-A) and the address is mentioned to be Jhuggi No. C-559 regarding which the Appellant/Claimant Ram Chet (since deceased) has claimed allotment from DDA. The material placed on file shows that the Appellant/Claimant has been continuously living in Jhuggi No. C-559 regarding which he has been claiming allotment from DDA and further he had used the Voter ID Card bearing No. DL/03/035/252877 (Annexure-A) to cast his vote in the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015), 2018 & also in the year 2019 as reflected in the voter lists (Annexure-Q to Annexure-V) the address is mentioned to be Jhuggi No. C-559 regarding which the Appellant/Claimant Ram Chet (since deceased) has been claiming allotment from DDA.

36. Thus we have no hesitation in holding that the Appellant/Claimant Ram Chet (since deceased) was having a valid Voter ID Card bearing No. DL/03/035/252877 (Annexure-A) on the cut off date of 01.01.2015 and this voter ID Card has been issued on the address of Jhuggi No. C-559 regarding which the present Appellant/ claimant has claimed allotment from DDA and further his name also appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015), 2018 & also in the year of survey. This shows that the Appellant/Claimant Ram Chet (since deceased) was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and his name also appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015), 2018 & of the year of survey and he accordingly fulfills the eligibility criteria as per the guidelines issued by DDA.

37. Asha had tendered the Passport (Annexure-D) of her husband Ram Chet (Appellant/Claimant) as well as her Voter ID Card No. ARE 2313351 (Annexure-E), Aadhar Card (Annexure-F) and Aadhar Card (Annexure-H), Voter ID Card No. ARE 1435213 (Annexure-G) & Caste Certificate (Annexure-I) of her son Amar and Voter ID Card No. ARE 2260867 (Annexure-J) of his daughter Sudha, PAN Card (Annexure-K) of Asha, the Passbook of Vijaya Bank (Annexure-M), Electricity Bill (Annexure-N), Gas

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Connection(Annexure-O) and the Ration Card (Annexure-P).

38. It is pointed out that the Passport of the Appellant/ Claimant Ram Chet (since deceased) (Annexure-D) has been issued on 25.11.1999 much prior to the cutoff date 01.01.2015. The Voter ID Card No. ARE 2313351 (Annexure-E) of Asha has been issued on 19.11.2019. The Voter ID Card No. ARE 1435213 (Annexure-G) of Amar has been issued on 20.08.2011. The Caste Certificate (Annexure-I) of Amar has been issued on 19.05.2016. The Voter ID Card No. ARE 2260867 (Annexure-J) of Sudha has been issued on 10.04.2019. The Electricity Bill (Annexure-N) shows that the electricity connection was taken by the Appellant/ Claimant Ram Chet (since deceased) on the address of the Jhuggi No. C-559 on 12.06.2008, much prior to the cutoff date 01.01.2015. The Gas connection (Annexure-O) has been taken by Amar S/o Ram Chet (Appellant/Claimant) on 20.02.2016. The Ration Card (Annexure-P) has been issued in favour of Basmati on 09.12.2014 and the name of the Appellant/ Claimant Ram Chet (since deceased) has been mentioned. Further, it is pointed out that the abovementioned documents have been issued on the address of Jhuggi No. C-559 regarding which the Appellant/ Claimant Ram Chet (since deceased) has been claiming allotment from DDA thereby showing that the Appellant/Claimant & his family members have been living there since long and especially much prior to the cutoff date of 01.01.2015 in the Jhuggi No. C-559 regarding which the Appellant/ Claimant Ram Chet (since deceased) has claimed allotment from DDA. This further shows that the Appellant/ Claimant Ram Chet (since deceased) is having requisite documents and accordingly he fulfills the eligibility criteria as per the guidelines issued by DDA.

39. Hence, we have no hesitation in holding that the double storey Jhuggi No. C-559, Bhoomiheen Camp was in existence much prior to the cutoff date of 01.01.2015 and further, the Appellant/ Claimant Ram Chet (since deceased) & his family has been using the said Jhuggi No. C-559 for residential purposes and both the floors of the said Jhuggi No. C-559 constitute a single dwelling unit and further the Appellant/ Claimant was having all the requisite documents, including Voter ID card, on the cutoff date of 01.01.2015 and his name also appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015), 2018 & also in the year of survey. Therefore, the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA.

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40. In view of our findings above, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/ Claimant Ram Chet (since deceased) fulfills the eligibility criteria as per the guidelines issued by DDA but the Eligibility Determination Committee has wrongly and illegally rejected his claim. Hence the present Appeal No. 206 of 2023 stands allowed, hereby, setting aside the impugned order bearing No. 385/63/70.1/1389 dated 07.11.2022. DDA is hereby directed to make allotment in favour of Asha (wife) in the capacity of legal heir of the Appellant/ Claimant Ram Chet (since deceased), in respect of the double storey Jhuggi No. C-559, Bhoomiheen Camp, Kalkaji.

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

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

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

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 235 of 2022
Date of Institution: 23.11.2022
Date of Order: 28.08.2023

Present: Appellant/Claimant Gopal Haldar S/o Kallu Haldar

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-174, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-174 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No.

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385/7/77.1/1639 dated 07.11.2022to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 235of 2022has 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 18.08.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-174 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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. B-174 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Gopal Haldar, has been recorded before us on 18.08.2023 wherein he has stated that his parents, Kallu & Renu are having two sons,

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Mukund & Gopal and three daughters, Meenu, Geeta & Shanti. Kalu had expired in the year 2014. All the children are married except Mukund. Meenu is married with Santosh and she is living in her matrimonial home in Tughlaqabad, Delhi. Shanti is married with Dipankar and she is living in her matrimonial home in Tughlaqabad, Delhi and Geeta is married with Gaurav and she is living with her mother in Bhoomiheen Camp, Kalkaji. Gopal (Appellant/Claimant) is married with Priyanka and having two children, Niyati & Trisha.

9. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi No. B-174 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that his mother Renu along with her unmarried son Mukund as well as the family of her daughter Geeta is living on the ground floor of the Jhuggi No. B-174 whereas the room on the second floor is used jointly by the entire family and regarding that DDA has made allotment in favour of his mother Renu. These facts are not disputed by DDA.

11. The Appellant/claimant has stated that he along with his wife Priyanka and both the children, Niyati & Trisha is living on the first floor of the Jhuggi No. B-174. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. B-174 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 235 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered document, Annexure-A to Annexure-M, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished the survey record along with six video clips pertaining to Jhuggi No. B-174. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 18.08.2023 wherein the Appellant/Claimant has stated that the three video clips pertain to the ground floor of Jhuggi No. B-174 in which his mother Renu is seen and further, her room & kitchen are also seen. The next three video clips pertain to the first floor of the Jhuggi No. B-174 in which the Appellant/Claimant Gopal is seen and further his room & kitchen are also seen. However, the video of the second floor was not prepared. But there is nothing to disbelieve the statement of the Appellant/Claimant that Jhuggi No. B-174 is a triple storey structure. Thus the statement of the Appellant/Claimant

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as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. B-174 being used for residential purposes, was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and his mother Renu were living on the ground floor whereas the family of the present Appellant/Claimant was living on the first floor and further the room on the second floor was used jointly by the entire family.

13. Accordingly, we have no hesitation in holding that the Jhuggi No. B-174in Bhoomiheen Camp is a pucca triple storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and it was used for residential purposes and further Renu (mother) was living on the ground floor and further the family of the Appellant/ Claimant Gopal was living on the first floor and the room on the second floor was used jointly by the family.

14. Now we shall first appraise the material placed on file to determine the eligibility on other parameters 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 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. B-174 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-M, in support of his claim and prayed that DDA be directed to make allotment in his favour

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

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(prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/7/77.1/1639 dated 07.11.2022.

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

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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."

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DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor)AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of

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rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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. B-174as per the policy guidelines issued by DDA.

23. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1866010 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-L) and Voter List of the year 2019 (Annexure-M).

24. It is pointed out that the Voter ID Card No. ARE 1866010 (Annexure-A) has been issued on 25.03.2014, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 123 in the Voter List of the year 2014 (Annexure-L) and at Sl. No. 176 in the Voter List of the year 2019 (Annexure-M). But the Appellant/Claimant has not tendered the Voter List of the year's 2012, 2013 and 2015 (prior to 01-01-2015) to show that he had used his Voter ID Card to cast his vote during these years. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut-off date of 01.01.2015 and his name appear in the voter list of the year's 2014 and 2019 but he has not tendered material documents to show that his name appears in the Voter List of the year's 2012, 2013 and 2015 (prior to 01-01-2015). Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

25. 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. B-174regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered his two Ration Cards (Annexure-I & Annexure-J). The first Ration Card

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(Annexure-I) has been issued in favour of his father Kallipad Haldar @ Kallu on 01.06.2007 and the name of the Appellant/Claimant is also mentioned. The second Ration Card (Annexure-J) has been issued in favour of his mother Renu on 09.12.2014 and the name of the Appellant/Claimant is also mentioned. 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 Jhuggi No. B-174 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

26. The Appellant/Claimant has tendered the Voter ID Card No. ARE 2560951 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Priyanka, the Electricity Bill (Annexure-G), the Passbook of PNB (Annexure-H) and Aadhar Card (Annexure-K) of his daughter Trisha.

27. It is pointed out that the Voter ID Card No. ARE 2560951 (Annexure-D) of his wife Priyanka has been issued on 14.12.2021, much after the cutoff date 01.01.2015. The Electricity Bill (Annexure-G) shows that the electricity connection has been taken by his father Kalu on 14.06.2008 on the ground floor of the Jhuggi No. B-174 thereby showing that the Appellant/Claimant was not having electricity connection on the first floor of the Jhuggi No. B-174 regarding which he is claiming allotment from DDA. The Passbook of PNB (Annexure-H) shows that his wife Priyanka had opened the account on 31.12.2021, much after the cutoff date 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

28. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in the Voter List of the year's 2012, 2013 and 2015 (prior to 01-01-2015). The documents, Annexure-A to Annexure-M, are of no help to the Appellant/Claimant because these

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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 separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

29. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-174 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 and 2015 (prior to 01-01-2015). Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

30. 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. 385/7/77.1/1639 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

31. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 344 of 2023

Date of Institution: 28.11.2022

Date of Order: 28.08.2023

Present: Appellant/ Claimant Basmati W/o Kamal

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 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-599, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-599 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/63/070.G/1388 dated 07.11.2022 to the present Appellant/Claimant.

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Aggrieved by the same, the present Appeal No. 344 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 13.07.2023. 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 Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-599 was found to exist but she had failed to submit required documents, i.e., valid Voter ID Card 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 07.11.2022 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 a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on 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-599 as per the policy guidelines issued by DDA.

8. The statement of Appellant/ Claimant, Basmati, has been recorded before us on 13.07.2023, wherein she has stated that her in-laws, Khakkan & Ram Pyari, are having four sons, namely, Ram Chet, Kamal, Ambika & Chandrika and one daughter Manbhawati.

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Manbhawati is married with Akshay Lal and she is living in her matrimonial home in Azamgarh, Uttar Pradesh. Chandrika is married with Gita and having three children Vishal, Vivek & Shreya and he is living on rent in Sangam Vihar, Delhi. Ambika is married with Sangeeta and having two sons Amkit & Aman and he is living in Jhuggi No. C-562 in Bhoomiheen Camp but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the Appeal No. 593 of 2023 before the Appellate Authority for redressal but his appeal has also been rejected by the Appellate Authority on 07.12.2022. Ram Chet is married with Asha and having four children, Amar, Rohit, Anjana & Sudha. All the children except Anjana are unmarried. Anjana is married with Rahul and she is living in her matrimonial home in Azamgarh, Uttar Pradesh. Ram Chet has died on 14.10.2021. Ram Chet (Appellant/Claimant) was married with Asha and having four children, Amar, Rohit, Anjana & Sudha. All the children except Anjana are unmarried. Anjana is married with Rahul and she is living in her matrimonial home in Azamgarh, Uttar Pradesh. Kamal is married with Basmati (Appellant/ Claimant) and having three children, Rajan, Kajal, & Himanshi.

9. The Appellant/ Claimant has stated that her family is having a double storey Jhuggi No. C-559, and it comprises of one room on each floor and a bamboo ladder is placed outside in the gali for going to the upper floor.

10. The Appellant/ Claimant has stated that Ram Chet (since deceased) has sought allotment against the ground floor of the Jhuggi No. C-559 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the Appeal No. 206 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

11. The Appellant/ Claimant has stated that she has sought allotment against the first floor of the Jhuggi No. C-559 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 344 of 2023 before the Appellate Authority for redressal. The Appellant/ Claimant has tendered document, Annexure- A to F, 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 number Appeal No. 206 of 2023 and Appeal No. 344 of 2023 shall be decided separately on their individual merit.

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13. DDA has furnished the survey record along with four video clips pertaining to Jhuggi No. C-559.The video clips were played before the Appellant/ Claimant when her statement was recorded before us on 13.07.2023 wherein she has stated that the two video clips pertain to the ground floor in which Asha W/o Ram Chet (since deceased) is seen getting survey conducted on behalf of the her husband Ram Chet (since deceased) and she is also heard stating that Ram Chet had since died and her children are living on the first floor and further, she is holding a slate in her hand in which **"RAM CHET C-559/G"** has been written is seen. In the next two video clips, the Appellant/ Claimant Basmati W/o Kamal is seen on the first floor of Jhuggi No. C-559 and room & kitchen are seen and further she is seen holding a slate on which **"BASMATI C-559/F"** has been written and further she is also heard stating that she is having three children and they are living on rent at some other.

14. The video clips prepared by the survey team at the time of survey shows that the family of the Ram Chet (since deceased) was living on the ground floor of Jhuggi No. C-559 and the survey was got conducted by his wife Asha and further Asha is also heard stating that her children are living on the first floor. Whereas the Appellant/ Claimant Basmati W/o Kamal had conducted survey on the first floor of Jhuggi No. C-559 but her statement made at the time of survey shows that Basmati and her family was not living there but they were living at some other place on rent but somehow she had managed to get the survey conducted. This accordingly shows that the double storey Jhuggi No. C-559 is a single dwelling unit and it comprises of one room & kitchen on the ground floor & a room on the first floor and a bamboo ladder is placed outside in the gali for going to the upper floor and the Appellant/ Claimant Ram Chet (since deceased) & his family have been using the double storey Jhuggi No. C-559 for residential purposes. Therefore, the material placed on file shows that the Appellant/ Claimant was not living separately & independently on the first floor of the Jhuggi No. C-559 on the cutoff date of 01.01.2015 but admittedly she along with her family was living on rent at some other place but she has concocted a wrong & false story to get allotment from DDA on the basis of wrong claim. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

15. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the present Appellant/ Claimant was having all

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the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of the said Jhuggi bearing No. C-559 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-F, in support of her claim and prayed that DDA be directed to make allotment in her favour.

17. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut -off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut- off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA as 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. 385/63/070.G/1388 dated 07.11.2022.

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.

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

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

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

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- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

19. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

20. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

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GIST OF THE POLICY

22. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

23. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi No. C-559 as per the policy guidelines issued by DDA

24. The Appellant/Claimant has tendered her Voter Information Slip (Annexure-A) and Aadhar Card (Annexure-B).

25. It is pointed out that in the Voter Information Slip (Annexure-A) it is mentioned that the Appellant/Claimant Basmati is having Voter ID Card bearing number SBC 0649137, which has been issued on the address of Sangam Vihar, Delhi. However, the Voter ID Card No. SBC 0649137 is not placed on file by the Appellant/Claimant for the reasons best known to her. Accordingly, the date of issuance of Voter ID Card No. SBC 0649137 cannot be ascertained. However, It is pointed out that the Voter Information Slip (Annexure-A) shows that the Appellant/Claimant is having Voter ID Card issued on the address of Sangam Vihar and not on the address of Jhuggi No. C-559 regarding which she is claiming allotment from DDA. This shows that the Appellant/Claimant was living in Sangam Vihar and not on the address of Jhuggi No. C-559 regarding which she is claiming allotment from DDA. This creates dent.

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26. It is pertinent to point out that the Appellant/Claimant has neither tendered the Voter ID Card No. SBC 0649137 nor the voter lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey to show that she had cast her vote by using the Voter ID Card No. SBC 0649137. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 and her name also does not appear in the voter lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

27. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1177930 (Annexure-C) & Aadhar Card (Annexure-D) of her husband Kamal and Electricity Bill (Annexure-E).

28. It is pointed out that the Voter ID Card No. ARE 1177930 (Annexure-C) of her husband Kamal has been issued on 27.10.2008. However, the Appellant/Claimant has not tendered the voter lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey to show that her husband Kamal had cast his vote by using the Voter ID Card No. ARE 1177930 (Annexure-C) in any of these years. As already pointed out the Appellant/Claimant has neither tendered her Voter ID Card No. SBC 0649137 nor the voter lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey to show that she had cast her vote by using the Voter ID Card No. SBC 0649137. This shows that neither the Appellant/Claimant nor her husband Kamal were living in Jhuggi No. C-559 Bhoomiheen Camp, Kalkaji regarding which the Appellant/Claimant is claiming allotment from DDA. Further, the Electricity Bill (Annexure-E) shows that Ram Chet, who is elder brother of Kamal, had taken the electricity connection on the ground floor of Jhuggi No. C-559, thereby showing that the Appellant/Claimant was not having separate electricity connection on the address of Jhuggi No. C-559 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. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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29. The Appellant/Claimant has tendered Ration Card (Annexure-F), which has been issued on 09.12.2014 in favour of the Appellant/Claimant and the name of her husband Kamal as well as Ram Chet is mentioned. However, the complaint has been made by Asha Devi W/o Ram Chet that Appellant/Claimant Basmati had got the Ration Card No. 077002167575 wrongly issued on the address of Jhuggi No. C-559 and accordingly the FSO, Kalkaji, by taking cognizance of the complaint, vide order dated 13.10.2023 (Annexure-G) had directed the Appellant/Claimant Basmati to get the address changed from Jhuggi No. C-599 to her correct address. This shows that the Appellant/Claimant had got the Ration Card (Annexure-F) issued by furnishing wrong information and accordingly she has been directed by the Competent Authority to get the address changed. This shows that the Appellant/Claimant has tried to forge documents to grab allotment from DDA by hook or crook. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

30. The material placed on file shows that the Appellant/ Claimant was not living separately & independently on the first floor of the Jhuggi No. C-559 on the cutoff date of 01.01.2015 but admittedly she along with her family was living on rent at some other place in Sangam Vihar, Delhi and further the Appellant/ Claimant was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-559 regarding which she is claiming allotment from DDA and further the name of the Appellant/ Claimant does not appear in the voter lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey. The documents, Annexure-A to Annexure-F, 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.

31. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not living separately & independently on the first floor of the Jhuggi No. C-559 on the cutoff date of 01.01.2015 but admittedly she along with her family was living on rent at some other place and further the Appellant/ Claimant was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-559 regarding which she is claiming allotment from DDA and further the name of the Appellant/ Claimant does not appear in the voter lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey. Therefore, the

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Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

32. 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. 385/63/070.G/1388 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

33. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 417 of 2023

Date of Institution: 29.11.2022

Date of Order: 28.08.2023

Present: Appellant/ Claimant Firdosh S/o Aziz

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 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-81, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-81 was found to exist on the upper floor 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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Bhoomiheen Camp, duly communicated its order bearing No. 385/62/72.1/1341 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 417 of 2022 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 21.08.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-81 was found to exist on the first floor but he had failed to submit required documents, i.e., Voter ID Card & separate Ration Card 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of Jhuggi bearing No. B-81 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Firdosh, has been recorded before us on 21.08.2023 wherein he has stated that his parents, Md. Aziz & Nasima, are having three sons,

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Firdosh, Farukh & Aslam and two daughters, Annu & Noorjahan. Aslam & Noorjahan are unmarried. Annu is married with Samir and she is living in her matrimonial home in Tughlaqabad, Delhi. Farukh is married with Puja and having two children, Aryan & Amaira and he is also living in Tughlaqabad, Delhi. Firdosh (Appellant/Claimant) is married with Sahana and having two children, Azan & Aisha.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. B-81 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that his parents, Md. Aziz & Nasima, along with their unmarried children, Aslam & Noorjahan, are living on the ground floor of the Jhuggi No. B-81, and regarding that DDA has made allotment in favour of his mother Nasima. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Sahana and both the children, Azan & Aisha is living on the first floor of the Jhuggi No. B-81. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. B-81 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 417 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documtent, Annexure-A to Annexure-P, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished the survey record along with thirteen video clips pertaining to Jhuggi No. B-81. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 21.08.2023 wherein the Appellant/Claimant has stated that the eight video clips pertain to the ground floor of Jhuggi No. B-81 in which his mother Nasima is seen and further, her room & kitchen are also seen. The next five video clips pertain to the first floor of the Jhuggi No. B-81 in which the Appellant/Claimant is seen and further his room & kitchen are also seen and further, a pucca staircase going from ground floor to the upper floor is seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. B-81 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and his parents, Md. Aziz & Nasima, were living on the ground floor whereas the Appellant/Claimant was living on the first floor

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of the said Jhuggi for residential purposes.

13. Accordingly, we have no hesitation in holding that the Jhuggi No. B-81 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further, the Appellant/ Claimant & his family is living on the first floor of the said Jhuggi.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of the Jhuggi No. B-81 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 her favour.

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant 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 her name 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. 385/62/72.1/1341 dated 07.11.2022.

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:

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"Part-B

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

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

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

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

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- 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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the

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dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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. B-81 as per the policy guidelines issued by DDA.

23. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1144898 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2015 (Annexure-O) and Voter List of the year 2019 (Annexure-P).

24. It is pointed out that the Voter ID Card No. ARE 1144898 (Annexure-A) has been issued on 26.04.2013, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 211 in the Voter List of the year 2015 (Annexure-O) and at Sl. No. 207 in the Voter List of the year 2019 (Annexure-P). However, the Appellant/Claimant has not tendered voter lists of the year's 2012, 2013 and 2014 to show that he had cast his vote by using the Voter ID Card. Therefore, we have no hesitation in holding that the Appellant/

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Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2015 & also in the year of survey but no material is placed on file to show that his name also appears in the voter lists of the year's 2012, 2013 and 2014. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

25. 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. B-81 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the Ration Card (Annexure-M), which has been issued in favour of his father Md. Aziz on 11.11.2004 and the name of the Appellant/Claimant is mentioned. The Appellant/Claimant had made an Application dated 10.01.2014 (Annexure-N) for issuance of Ration Card but he has specifically admitted that no ration card has been issued in his favour up till now. Accordingly making an Application (Annexure-N) on 10.01.2014 is of no consequence because the policy guidelines issued by DDA prescribes that the dweller claiming allotment against the upper floor must have a separate ration card on the cutoff date of 01.01.2015. 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 the first floor of Jhuggi No. B-81. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

26. The Appellant/Claimant has tendered his Driving License (Annexure-D), RC of Bike (Annexure-E), as well as Voter ID Card No. ARE 2066891 (Annexure-F), Aadhar Card (Annexure-G) & PAN Card (Annexure-H) of his wife Sahana and Aadhar Cards of his children, Azan & Aisha (Annexure-I & Annexure-J), the Passbook of Bank of India (Annexure-K) and the Electricity Bill (Annexure-L).

27. It is pointed out that the Driving License (Annexure-D) of the Appellant/Claimant has been issued on 06.02.2017, much after the cutoff date 01.01.2015. The RC of Bike (Annexure-E) has also been issued in the month of June 2017, much after the cutoff date 01.01.2015. The Voter ID Card No. ARE 2066891 (Annexure-F) of his wife Sahana has been issued on 25.08.2015, much after the cutoff date 01.01.2015. The Passbook of Bank of India (Annexure-K) shows that the Appellant/Claimant had opened the account on 02.05.2019,

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much after the cutoff date 01.01.2015. The Electricity Bill (Annexure-L) shows that the electricity connection has been taken by his father Md. Aziz on 24.12.2008 on the ground floor of the Jhuggi No. B-81 thereby showing that the Appellant/Claimant was not having separate electricity connection on the first floor of the Jhuggi No. B-81 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these document do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not 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.

28. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in the Voter List of the year's 2012, 2013 and 2014 . The documents, Annexure-A to Annexure-P, 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 separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

29. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-81 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 and 2014. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

30. 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. 385/62/72.1/1341 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

31. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 526 of 2023

Date of Institution: 02.12.2022

Date of Order: 28.08.2023

Present: Appellant/Claimant Ajay Pramanik S/o Kanai Pramanik

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-221, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-221 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/67/050.1.1F/1524 dated

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07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 526 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 16.08.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-221 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Ajjay Pramanik, has been recorded before us on 16.08.2023 wherein he has stated that his parents, Kanai Pramanik & Kanak, are having four sons, Ajay, Vijay, Babulal & Devasish. Babulal is married with Lalita and having two children

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and he is living in Madanpur khaddar, Delhi. Devasish along with his wife and children is living in Tughlaqabad, Delhi. Vijay is married with Jhuma and having two children, Vinay & Arjun. Ajay (Appellant/Claimant) is married with Shikha and having two children, Badal & Mita.

8. The Appellant/Claimant has stated that his parents, Kanai Pramanik & Kanak, are having a triple storey Jhuggi No. A-221 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the rear gali for going to the first floor directly from that side and further another iron ladder is placed on the first floor for going to the second floor. Further, the structure raised on the second floor is temporary Chhapar.

9. The Appellant/Claimant has stated that his parents, Kanai Pramanik & Kanak, are living on the ground floor of the Jhuggi No. A-221 regarding that DDA has made allotment in favour of his mother, Kanak. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that his brother Vijay along with his wife Jhuma and both the children is living in the Chappar constructed on the second floor of the Jhuggi No. A-221 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the Appeal No. 613 of 2023 before the Appellate Authority for redressal but his appeal has been rejected by the Appellate Authority on 08.08.2023. These facts are not disputed by DDA.

8. The Appellant/Claimant has stated that he along with his wife Sikha and both the children, Badal & Mita, is living in the Chappar constructed on the first floor of the Jhuggi No. A-221. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-221 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 526 of 2023 before the Appellate Authority for redressal. 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.

9. DDA has furnished the survey record along with five video clips pertaining to Jhuggi No. A-221. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 16.08.2023 wherein the Appellant/Claimant has stated that the two video clips pertain to the ground floor of the Jhuggi No. A-221 in which his mother Kanak is

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seen and further her room & kitchen are also seen. The third video clip pertains to the first floor of Jhuggi No. A-221 in which the Appellant/Claimant Ajay is seen and further his room & kitchen are also seen. The next two video clips pertain to the second floor of Jhuggi No. A-221 in which wife Jhuma W/o Vijay is seen and further his room & kitchen are also seen and an iron ladder placed on the first floor for going to the second floor is also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. C-221 being used for residential purposes, was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and his mother Kanak were living on the ground floor whereas the family of the present Appellant/Claimant was living on the first floor and further the family of his brother Vijay was living on the second floor.

10. Accordingly, we have no hesitation in holding that the Jhuggi No. C-221 in Bhoomiheen Camp is a pucca triple storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and it was used for residential purposes and further Kanak (mother) as well as the family of Ajay (Appellant/Claimant of Appeal No. 526 of 2023) was living on the first floor and further the family of Vijay (Appellant/ Claimant of Appeal No. 613) was living on the second floor.

11. Now we shall first appraise the material placed on file to determine the eligibility on other parameters 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 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 as per the policy guidelines issued by DDA.

12. 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

11. 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 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 his name 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. 385/67/050.1.1F/1524 dated 07.11.2022.

12. 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

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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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

13. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for

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allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

14. As already pointed out above, condition contained in Part–B Para 10 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."

15. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

16. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

17. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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

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claim allotment against the first floor of Jhuggi No. A-221 as per the policy guidelines issued by DDA.

13. The Appellant/Claimant has tendered Voter ID Card No. ARE 1137728 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-L) and Voter List of the year 2019 (Annexure-M).

18. It is pointed out that the Voter ID Card No. ARE 1137728 (Annexure-A) has been issued on 27.10.2008, much prior to the cut off date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 254 in the Voter List of the year 2014 (Annexure-L) and at Sl. No. 310 in the Voter List of the year 2019 (Annexure-M). But the Appellant/Claimant has not tendered the Voter List of the year's 2012, 2013 and 2015 (prior to 01-01-2015) to show that he had used his Voter ID Card No. ARE 1137728 (Annexure-A) to cast his vote during these years. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut-off date of 01.01.2015 and his name appear in the voter list of the year's 2014 and 2019 but he has not tendered material documents to show that his name appears in the Voter List of the year's 2012, 2013 and 2015 (prior to 01-01-2015). Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

14. 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. A-221 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered two Ration Cards (Annexure-J & Annexure-K). The first Ration Card (Annexure-J) has been issued on 22.08.2002 in favour of his father Kanhaiya and the name of the Appellant/Claimant is mentioned. The second Ration Card (Annexure-K) has been issued in favour of his mother Kanak and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. 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 Jhuggi No. A-221 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

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15. The Appellant/Claimant has tendered Voter ID Card No. CXY 1081488 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Sikha as well as the Electricity Bill (Annexure-G), Driving License (Annexure-H) and the Passbook of Bank of Maharashtra (Annexure-I).

16. It is pointed out that the Voter ID Card No. CXY 1081488 (Annexure-D) has been issued on 10.03.2002, much prior to the cutoff date 01.01.2015. The Electricity Bill (Annexure-G) shows that the Electricity connection has been taken by his father Kanhaiya on 11.05.2008 on the ground floor of the Jhuggi No. A-221 thereby showing that the Appellant/Claimant was not having electricity connection on the first floor of the Jhuggi No. A-221 regarding which he is claiming allotment from DDA. The Driving License (Annexure-H) has been issued on 27.09.2002. The Passbook of Bank of Maharashtra (Annexure-I) shows that the Appellant/Claimant had opened the account on 29.09.2002. 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 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

17. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in the Voter List of the year's 2012, 2013 and 2015 (prior to 01-01-2015). The documents, Annexure-A to Annexure-M, 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 separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

18. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-221 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 and 2015 (prior to 01-

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01-2015). Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

19. 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. 385/67/050.1.1F/1524 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

20. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 591 of 2023

Date of Institution: 07.12.2022

Date of Order: 28.08.2023

Present: Appellant/ Claimant Manju Barman W/o Paltoo Barman D/o Nishi Barman

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 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-287, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-287 was found to exist on the upper floor 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

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Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/58/0042.1-A 1F/1133 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 591 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 02.08.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-287 was found to exist on the upper floor but she had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi No. A-287 as per the policy

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guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Manju Barman, has been recorded before us on 02.08.2023 wherein she has stated that her in-laws, Gopal & Laxmi, are having three sons, Mintu, Phony & Paltoo. All the children are married. Mintu is married with Sonali and having two children, Rashi & Mukta. Phony is married with Geetu and having one son, Anirudh. Paltoo is married with Manju (Appellant/Claimant) and having two children, Deepika & Subham.

9. The Appellant/Claimant has stated that her family is having a triple storey Jhuggi No. A-287 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that her in-laws, Gopal & Laxmi, along with the family of Mintu & Phony are living on the ground floor & second floors of the Jhuggi No. A-287 and regarding that DDA has made allotment in favour of her mother-in-law Laxmi. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that she along with her husband Paltoo and both the children, Deepika & Subham, is living on the first floor of the Jhuggi No. A-287. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-287 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 591 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has 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 the survey record along with three video clips pertaining to Jhuggi No. A-287. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 02.08.2023 wherein the Appellant/Claimant has stated that first video clip pertains to the ground floor of Jhuggi No. A-287 in which her mother-in-law, Laxmi, is seen and further her room & kitchen are also seen. The next two video clips pertain to the first floor of the Jhuggi No. A-287 in which the Appellant/claimant Manju is seen and further, her room & kitchen are also seen and a pucca staircase going from the ground floor to the first floor is also seen. There is no video of the second floor. However,

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there is nothing to disbelieve the statement of the Appellant/Claimant that Jhuggi No. A-287 is a triple storey structure. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey Jhuggi No. A-287 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground & second floors have been used for residential purposes by her in-laws, Gopal & Laxmi, and the first floor is used for residential purposes by the Appellant/Claimant.

13. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. A-287 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

14. Now we shall first appraise the material placed on file to determine the eligibility on other parameters 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 the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi No. A-287 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-K, in support of her claim and prayed that DDA be directed to make allotment in her favour.

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut -off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut- off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA as 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. 385/58/0042.1-A 1F/1133 dated 07.11.2022.

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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.
>
> **<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.

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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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20. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

22. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi No. A-287 as per the policy guidelines issued by DDA

23. The Appellant/Claimant has tendered her Voter ID Card No. ARE 1130236 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-J) and Voter List of the year 2019 (Annexure-K).

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24. It is pointed out that the Voter ID Card No. ARE 1130236 (Annexure-A) of the Appellant/Claimant has been issued on 27.10.2008, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 719 in the Voter List of the year 2014 (Annexure-J) and at Sl. No. 923 in the Voter List of the year 2019 (Annexure-K). However, the Appellant/Claimant has not tendered voter lists of the year's 2012, 2013, and 2015 (prior to 01-01-2015) to show that she had used her Voter ID Card No. ARE 1130236 (Annexure-A) to cast her vote during these years. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and her name also appears in at least on the voter list of the year's 2014 & also in the year of survey but no material is placed on file to show that her name also appears in the voter lists of the year's 2012, 2013, and 2015 (prior to 01-01-2015). Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

25. The Appellant/Claimant has stated that she 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. A-287 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered the Ration Card (Annexure-G), which has been issued in favour of her mother-in-law, Laxmi Burman and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. 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. A- 287 regarding which she 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

26. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1139245 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of her husband Paltoo, Electricity Bill (Annexure-H) and the Passbook of Indian Overseas Bank (Annexure-I).

27. It is pointed out that the Voter ID Card No. ARE 1139245 (Annexure-D) of her husband Paltoo has been issued on 27.10.2008. The Electricity Bill (Annexure-H) shows that the electricity connection has been taken by her father-in-law, Gopal Burman, on the ground floor of the Jhuggi No. A-287 thereby showing that the Appellant/Claimant was not

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having separate electricity connection on the first floor of the Jhuggi No. A-287 regarding which she is claiming allotment from DDA. The Passbook of Indian Overseas Bank (Annexure-I) shows that the Appellant/Claimant had opened the account on 16.09.2014. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor.

28. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card & separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-287 regarding which she is claiming allotment from DDA and further the name of the Appellant/ Claimant does not appear in the Voter List of the year's 2012, 2013 and 2015 (prior to 01-01-2015). The documents, Annexure-A to Annexure-K, 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.

29. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-287 regarding which she is claiming allotment from DDA and further the name of the Appellant/ Claimant does not appear in the Voter List of the year's 2012, 2013 and 2015 (prior to 01-01-2015). Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

30. 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. 385/58/0042.1-A 1F/1133 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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31. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No:673 of 2023

Date of Institution: 03.02.2023

Date of Order: 28.08.2023

Present: Appellant/ Claimant Sneha Burman W/o Sagar Majhi D/o Bharat Burman

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 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. B-204, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-204 was found to exist on the upper floor 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, Bhoomiheen Camp,

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duly communicated its order bearing No. 385/36/88.1/977 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 673 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 11.08.2023. 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 Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-204was found to exist on the upper floor but she had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi No. B-204 as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant, Sneha Burman, has been recorded before us on 11.08.2023, wherein she has stated that her parents, Bharat Burman & Sangita, are having one son, Anurag and one daughter, Sneha. Anurag is unmarried. Sneha (Appellant/Claimant) is married with Sagar Majhi and having one son Mayank.

9. The Appellant/Claimant has stated that her parents, Bharat Burman & Sangita, are having a double storey Jhuggi No. B-204 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that her parents, Bharat Burman & Sangita, along with their unmarried son Anurag are living on the ground floor of the Jhuggi No. B-204 and regarding that DDA has made allotment in favour of her mother Sangita. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that she along with her husband Sagar and son Mayank is living on the first floor of the Jhuggi No. B-204. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. B-204 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 673 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-F, in support of her claim and prayed that DDA be directed to make allotment in her favour.

12. DDA has furnished the survey record along with six video clips pertaining to Jhuggi No. B-204. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 11.08.2023 wherein the Appellant/Claimant has stated that the three video clips pertain to the ground floor of the Jhuggi No. B-204 in which her father Bharat Burman is seen and further, the room & kitchen of her parents are also seen. The next three video clips pertain to the first floor of the Jhuggi No. B-204 in which the Appellant/Claimant Sneha is seen and further, her room & kitchen are also seen. 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-204 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by her parents, Bharat Burman & Sangita, and the first floor is used for residential purposes by the Appellant/Claimant.

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13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-204 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

14. Now we shall first appraise the material placed on file to determine the eligibility on other parameters 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 the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi No.B-204 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-F, in support of her claim and prayed that DDA be directed to make allotment in her favour.

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut-off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut-off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA as 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. 385/36/88.1/977 dated 07.11.2022.

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

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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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor)AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against

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upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

22. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi No. B-204 as per the policy guidelines issued by DDA

23. The Appellant/Claimant has tendered her Voter ID Card No. ARE 1719870 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-E) and Voter List of the year 2019 (Annexure-F).

24. It is pointed out that the Voter ID Card No. ARE 1719870 (Annexure-A) has been issued on 10.09.2013, much prior to the cutoff date 01.01.2015 and the name of the Appellant/Claimant appears at Sl. No.569 in the Voter List of the year 2014 (Annexure-E)

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and at Sl. No. 559 in the Voter List of the year 2019 (Annexure-F). However, the Appellant/Claimant has not tendered voter lists of the year's 2012, 2013, and 2015 (prior to 01-01-2015) to show that she had cast her vote by using the Voter ID Card No. ARE 1719870 (Annexure-A). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and her name also appears in at least on the voter list of the year's 2014 & also in the year of survey but no material is placed on file to show that her name also appears in the voter lists of the year's 2012, 2013, and 2015 (prior to 01-01-2015). Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

25. The Appellant/Claimant has stated that she 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. B-204 regarding which she 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. B-204 regarding which she 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

26. The Appellant/Claimant has tendered her Passbook of SBI (Annexure-D) and it shows that the Appellant/Claimant had opened the account on 26.11.2021, much after the cutoff date 01.01.2015. It is pointed out that the above-mentioned document is of no help to the Appellant/Claimant because this document does 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 separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor.

27. The material placed on file shows 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. B-204 regarding which she is claiming allotment from DDA and further the name of the Appellant/ Claimant does not appear in the Voter List of the year's 2012,

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2013 and 2015 (prior to 01-01-2015). The documents, Annexure-A to Annexure-F, 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.

28. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-204 regarding which she is claiming allotment from DDA and further she has not tendered the Voter List of the year's 2012, 2013 and 2015 (prior to 01-01-2015). Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

29. 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. 385/36/88.1/977 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

30. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 681 of 2023

Date of Institution:23.01.2023

Date of Order: 28.08.2023

Present: Appellant/ Claimant Rahul Burman S/o Manoranjan Burman

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 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-452, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-452 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/26/122.1/878 dated

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07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 681 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 21.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-452 was found to exist on the first floor but he had failed to submit required documents, i.e., Voter ID Card & separate Ration Card 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of Jhuggi bearing No. B-452 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Rahul Burman, has been recorded before us on 21.08.2023 wherein he has stated that his parents, Manoranjan & Parvati, are having two

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sons, Rahul & Bunty and two daughters Shefali & Sunita. Manoranjan had expired in the year 2011. All the children except Bunty are married. Shefali is married with Sumit and she is living in her matrimonial home in Deoli, Delhi. Sunita is married with Rajesh and she is living in her matrimonial home in Dakshinpuri, Delhi. Rahul (Appellant/Claimant) is married with Jayanti and having one daughter, Tanvi.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. B-452 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that his parents, Manoranjan (until his death in the year 2011) and Parvati, along with their unmarried son Bunty is living on the ground floor of Jhuggi No. B-452 and regarding that DDA has made allotment in favour of his mother Parvati. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Jayanti and daughter Tanvi is living on the first floor of the Jhuggi No. B-452. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. B-452 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 681 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-I, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished the survey record along with six video clips pertaining to Jhuggi No. B-452. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 21.08.2023, in which the Appellant/Claimant has stated that the four video clips pertain to the ground floor of the Jhuggi No. B-452 in which Sunita is seen getting survey conducted on the behalf of his mother Parvati and further, the room & kitchen of Parvati are seen and further, a pucca staircase going from the ground floor to the upper floor is seen. The next two video clips pertain to the first floor of Jhuggi No. B-452 in which the Appellant/Claimant is seen and further, his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has

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duly proved that a double storey Jhuggi No. B-452 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

13. Accordingly, we have no hesitation in holding that the Jhuggi No. B-452 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further, the Appellant/ Claimant & his family is living on the first floor of the said Jhuggi.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of the Jhuggi No. B-452 as per the policy guidelines issued by DDA.

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

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card, on the cutoff date of 01.01.2015 and. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/26/122.1/878 dated 07.11.2022.

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

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

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

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

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- 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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

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21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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. B-452 as per the policy guidelines issued by DDA.

23. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1604452 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-G) and Voter List of the year 2019 (Annexure-I).

24. It is pointed out that the Voter ID Card No. ARE 1604452 (Annexure-A) has been issued on 16.01.2013, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 552 in the Voter List of the year 2014 (Annexure-G) and at Sl. No. 617 in the Voter List of the year 2019 (Annexure-H). But the Appellant/ Claimant has not tendered the Voter List of the year's 2012, 2013 and 2015 (prior to 01-01-2015). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut-off date of 01.01.2015 and his name appear in the voter list of the year's 2014 and 2019 but he has not tendered the Voter Lists to show that his name appears in the voter list of the year's 2012, 2013 and 2015 (prior to 01-01-2015). Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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25. 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. B-452 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered Ration Card (Annexure-F), which has been issued in favour of his father Manoranjan on 01.06.2007 but the details of the family members is not mentioned. 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 the first floor of Jhuggi No. B-452 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

26. The Appellant/Claimant has tendered his Driving License (Annexure-D), the Passbook of Union Bank of India (Annexure-E) and Aadhar Card of his wife Jayanti (Annexure-I).

27. It is pointed out that Driving License (Annexure-D) of the Appellant/Claimant has been issued on 05.07.2013. The Passbook of Union Bank of India (Annexure-E) shows that the Appellant/Claimant had opened the account 02.12.2014. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these document do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment against the upper floor.

28. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in the Voter List of the year's 2012, 2013 and 2015 (prior to 01-01-2015). The documents, Annexure-A to Annexure-I, 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 separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

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29. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-452 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 and 2015 (prior to 01-01-2015). Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

30. 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. 385/26/122.1/878 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

31. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 728 of 2023

Date of Institution: 21.11.2022

Date of Order: 28.08.2023

Present: Appellant/ Claimant Subhanti Devi W/o Manoj Kumar Gupta D/o Vijay Shah

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 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-176, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-176 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer,

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Bhoomiheen Camp, duly communicated its order bearing No. 385/66/80.1.1/1489 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 728 of 2022 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 18.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-176 was found to exist on the first floor but she had failed to submit required documents, i.e., Voter ID Card & separate Ration Card 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi bearing No. A-176 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Subhanti Devi, has been recorded before us on 17.08.2023, wherein she has stated that her parents, Vijay & Shobha, are having four sons,

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Upender, Jitender, Krishna & Vishal and two daughters, Subhanti & Aarti. Krishna & Vishal are unmarried whereas other children are married. Aarti is married with Vikas and she is living in her matrimonial home in Uttam Nagar, Delhi. Jitender is married with Ram Pyari and having one daughter, Ruhi and he is living in Mithapur, Badarpur, Delhi. Upender is married with Leela and having three children, Vikas, Vanshika & Vani and he is living in Tughlaqabad, Delhi. Subhanti (Appellant/Claimant) is married with Manoj and having two children, Love & Kush and she is living with her husband and both the children Love & Kush in Bhoomiheen Camp, Kalkaji, Delhi.

9. The Appellant/Claimant has stated that her parents, Vijay & Sobha, are having a double storey Jhuggi No. A-176 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that her parents, Vijay & Sobha, along with their unmarried sons, Krishna & Vishal, are living on the ground floor of the Jhuggi No. A-176 and regarding that DDA has made allotment in favour of her mother Shobha. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that she along with her husband Manoj and both the children, Love & Kush is living on the first floor of the Jhuggi No. A-176. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-176 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 728 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-M, in support of her claim and prayed that DDA be directed to make allotment in her favour.

12. DDA has furnished the survey record along with five video clips pertaining to Jhuggi No. A-176. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 17.08.2023 wherein the Appellant/Claimant has stated that the two video clips pertain to the ground floor of the Jhuggi No. A-176 in which her mother Shobha is seen and further, her room & kitchen are also seen. The next three video clips pertain to the first floor of the Jhuggi No. A-176 in which the Appellant/Claimant is seen and her room & kitchen are also seen and further, a pucca staircase going from the ground floor to the

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upper floor is also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. A-176 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and her parents, Vijay & Sobha, were using the ground floor whereas the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

13. Accordingly, we have no hesitation in holding that the Jhuggi No. A-176 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further, the Appellant/ Claimant & her family is living on the first floor of the said Jhuggi.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on 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 Jhuggi No. A-176 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-M, in support of her claim and prayed that DDA be directed to make allotment in her favour.

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant 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 her name 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. 385/66/80.1.1/1489 dated 07.11.2022.

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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.
>
> **<u>As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:</u>**
>
> - Passport.
> - Ration Card with photograph.

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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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20. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi No. A-176 as per the policy guidelines issued by DDA.

23. The Appellant/Claimant has tendered her Voter ID Card No. ARE 2009040 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2015 (Annexure-L) and Voter List of the year 2019 (Annexure-M).

24. It is pointed out that the Voter ID Card No. ARE 2009040 (Annexure-A) has been issued on 21.01.2015, much after the cutoff date 01.01.2015. It is pointed out that the name of the

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Appellant/Claimant appears at Sl. No. 917 in the Voter List of the year 2015 (Annexure-L) and at Sl. No. 94 in the Voter List of the year 2019 (Annexure-M). Since the Voter ID Card No. ARE 2009040 (Annexure-A) has been issued on 21.01.2015, much after the cutoff date 01.01.2015, therefore, the question of her name appearing in the Voter Lists of 2012, 2013, 2014 and 2015 (prior to 01-01-2015) does not arise. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut-off date of 01.01.2015 but her name appears in the voter list of the year's 2015 and 2019 but her name does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

25. The Appellant/Claimant has admitted that she 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. A-176 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered the Ration Card (Annexure-K), which has been issued in her favour on 20.04.2015, much after the cutoff date 01.01.2015. 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 the first floor of Jhuggi No. A-176. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

26. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1976389 (Annexure-D), Aadhar Card (Annexure-E), PAN Card (Annexure-F) & Driving License (Annexure-I) of her husband Manoj, the Passbook of PNB (Annexure-G), the Electricity Bill (Annexure-H) and the Passbook of PNB (Annexure-J).

27. It is pointed out that the Voter ID Card No. ARE 1976389 (Annexure-D) of her husband Manoj has been issued on 14.09.2014. The Driving License (Annexure) of her husband Manoj has been issued on 15.02.2011. The Passbook of PNB (Annexure-G) shows that the Appellant/Claimant had opened the account on 15.09.2017, much after the cutoff date 014.01.2015. The Passbook of PNB (Annexure-J) shows that her husband Manoj had opened the account on 15.01.2015, much after the cutoff date 01.01.2015. The Electricity Bill (Annexure-H) shows that the electricity connection has been taken by her father Vijay on 17.07.2008 on the ground floor of the Jhuggi No. A-176 thereby showing that the

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Appellant/Claimant was not having separate electricity connection on the first floor of the Jhuggi No. A-176, 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 document do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor.

28. The material placed on file shows that the Appellant/ Claimant 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 the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). The documents, Annexure-A to Annexure-M, 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 separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she is claiming allotment against the upper floor.

29. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-176 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). Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

30. 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. 385/66/80.1.1/1489 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

31. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 195 of 2022

Date of Institution: 23.11.2022

Date of Order: 30.08.2023

Present: Appellant/ Claimant Geeta Devi W/o Prem Pal D/o Naanak

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 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. B-207/1, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-207/1 was found to exist on the ground floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/61/86.G-A/1304 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 195 of 2022 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 11.08.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-207/1 was found to exist on the ground floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists 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 07.11.2022 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 a Voter ID Card on the cutoff date of 01.01.2015 and further whether her name appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi bearing No. B-207/1 as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant, Geeta Devi, has been recorded before us on 11.08.2023 wherein she has stated that she was married with Prem Pal and having two sons; Ashu & Annu and one daughter Jyoti. Prem Pal had died about nineteen years ago. Ashu & Annu are unmarried. Jyoti is married with Jagdish and she is living in her matrimonial home in Jaipur, Rajasthan.

9. The Appellant/Claimant has stated that she along with her unmarried sons, Ashu & Annu, is living in the single storey Jhuggi No. B-207/1. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi No. B-207/1 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 195 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-K, in support of her claim and prayed that DDA be directed to make allotment in her favour.

10. DDA has furnished the survey record along with three video clips pertaining to the Jhuggi No. B-207/1. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 11.08.2023 wherein she has stated that all the three video clips pertain to the Jhuggi No. B-207/1 in which the Appellant/Claimant Geeta Devi is seen and further, her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the single storey Jhuggi No. B-207/1 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family there.

11. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. B-207/1, Bhoomiheen Camp is a pucca structure and the Appellant/Claimant is using the Jhuggi No. B-207/1 for residential purposes.

12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 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. B-207/1 as per the policy guidelines issued by DDA.

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13. 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.

14. 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 Ground floor but she is not having a Valid Voter ID Card 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 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. 385/61/86.G-A/1304 dated 07.11.2022.

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.

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

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

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

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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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

16. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17. As already pointed out above, condition contained in Part–B Para 10 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."

18. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

19. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ

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dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

20. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. B-207/1 as per the policy guidelines issued by DDA.

21. The Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), PAN Card (Annexure-D), Voter List of the year 2009 (Annexure-J) and Voter List of the year 2023 (Annexure-K).

22. It is pointed out that the Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-B). The Appellant/Claimant has failed to explains the reasons for having got two Voter ID Cards issued in her favour.

23. The first Voter ID Card (Annexure-A) is bearing No. DL/03/035/243577 and it has been issued on 23.12.1995, much prior to the cut off date of 01.01.2015. This Voter ID Card was used by the Appellant/Claimant to cast her vote in the years 2009 and accordingly, her name is reflected at Sl. No. 791 in the Voter List of the year 2009 (Annexure-J). Further, no other Voter List has been tendered by the Appellant/Claimant to show that she had used this Voter ID Card to cast her vote in the years except 2009 and more specifically from the years 2012 to 2019. This shows that the Voter ID Card No. No. DL/03/035/243577 (Annexure-A) might have been cancelled by the Election Commission for having not used by her after 2009.

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24. It is pointed out that the second Voter ID Card (Annexure-B) is bearing No. ARE 2610772 and it has been issued on 13.12.2022, much after the cut off date of 01.01.2015 and this Voter ID Card (Annexure-B) was used by the Appellant/Claimant to cast her vote in the year 2023 and her name is reflected at Sl. No. 1379 in the Voter List of the year 2023 (Annexure-K). Further, the Voter ID Card (Annexure-B) and the Voter List of the year 2023 (Annexure-K) are not relevant as it pertains to the post relevant date of 01.01.2015.

25. It has already been pointed out that the first Voter ID Card (Annexure-A) is bearing No. DL/03/035/243577 and it has been issued on 23.12.1995, much prior to the cut off date of 01.01.2015. This Voter ID Card was used by the Appellant/Claimant to cast her vote in the years 2009. But the Appellant/ Claimant has not tendered the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey to show that she had used the Voter ID Card No. DL/03/035/243577 to cast vote in these years. This shows that the Voter ID Card No. No. DL/03/035/243577 (Annexure-A) might have been cancelled by the Election Commission for having not used by her after 2009 and this explain issuance of the issuance of the second Voter ID Card No. ARE 2610772 (Annexure-B) on 13.12.2022. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 and 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.

26. The Appellant/Claimant has tendered two Ration Cards (Annexure-E & Annexure-F), Electricity Bill (Annexure-G), Passbook of SBI (Annexure-H) and Voter ID Card no. DL/03/035/243576 (Annexure-I) of her husband Prem Pal.

27. It is pointed out that the Appellant/Claimant has tendered two Ration Cards (Annexure-E & Annexure-F). The first Ration Card (Annexure-E) has been issued in favour of the Appellant/Claimant on 10.11.2004 and the second Ration Card (Annexure-F) has also been issued in favour of the Appellant/Claimant but the date of issuance is not mentioned. It is pointed out that the Electricity Bill (Annexure-G) shows that the Appellant/Claimant had taken the electricity connection on 05.08.2008. The Passbook of SBI (Annexure-H) shows

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that the Appellant/Claimant had opened the account on 12.09.2013. The Voter ID Card No. DL/03/035/243576 (Annexure-I) of her husband Prem Pal has been issued on 23.12.1995, 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 Prem Pal had used this Voter ID Card (Annexure-I) to cast his vote in any of the elections and more specifically from the years 2012 to the year 2019. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because this document does 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 cut- off date of 01.01.2015 and 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.

28. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 and 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. The documents, Annexure-A to Annexure-K, 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.

29. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 and 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 does not fulfill the eligibility criteria as per the guidelines issued by DDA.

30. 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. 385/61/86.G-A/1304 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

31. 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.

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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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 145 of 2022

Date of Institution: 22.11.2022

Date of Order: 30.08.2023

Present: Appellant/ Claimant Pawan S/o Sohan Lal

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-64, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-64 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/7/106.1/1652 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 145 of 2022 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 11.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-64 was found to exist on the upper floor but he had failed to submit required documents, i.e. separate Ration Card etc., 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of Jhuggi bearing No. B-64 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Pawan, has been recorded before us on 11.08.2023 wherein he has stated that his parents, Sohan Lal & Savitri, are having five

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sons, Suresh, Pawan, Ashok, Jitender & Harish and daughter, Rekha. Sohan Lal had expired about 15 years ago. All the children except Jitender & Harish are married. Rekha is married with Vinod and she is living in her matrimonial home in Narela, Delhi. Suresh is married with Kavita and they are living on rent in Bhoomiheen Camp, Kalkaji. Ashok is married with Pinki. Pawan (Appellant/Claimant) is married with Rina and having one son, Rishi.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. B-64 and it comprises of one room on each floor and an iron ladder is placed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that his mother Savitri along with her unmarried sons, Jitender & Harish, as well as with the family of Ashok, is living on the ground floor of Jhuggi No. B-64 regarding that DDA has made allotment in favour of his mother Savitri. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Rina and son, Rishi, is living on the first floor of the Jhuggi No. B-64. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. B-64 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 145 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished the survey record along with twelve video clips pertaining to Jhuggi No. B-64. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 11.08.2023 wherein the Appellant/Claimant has stated that seven video clips pertain to the ground floor of the Jhuggi No. B-64 in which his mother Savitri is seen and further, her room & kitchen are also seen. The next five video clips pertain to the first floor of the Jhuggi No. B-64 in which an iron ladder placed outside in the gali and used for going from ground floor to the first floor is seen and further, the Appellant/Claimant is seen and his room & kitchen on the first floor are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. B-64 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground

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floor has been used for residential purposes by his mother, Savitri, whereas the first floor is used by the Appellant/ Claimant along with his family for residential purposes.

13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-64 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor of Jhuggi No. B-64 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 his claim and prayed that DDA be directed to make allotment in his favour.

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the 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. 385/7/106.1/1652 dated 07.11.2022.

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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.
>
> **<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>**

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

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

20. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor of Jhuggi No. B-64 as per the policy guidelines issued by DDA.

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23. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1144328 (Annexure-A), Aadhar Card (Annexure-B), Voter List of the year 2013 (Annexure-K) and Voter List of the year 2019 (Annexure-L).

24. It is pointed out that the Voter ID Card No. ARE 1144328 (Annexure-A) has been issued on 27.10.2008, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 221 in the Voter List of the year 2013 (Annexure-K) and at Sl. No. 166 in the Voter List of the year 2019 (Annexure-L). The Appellant/Claimant has not tendered no other Voter Lists except the Voter List of the years 2013 (Annexure-K) & 2019 (Annexure-L) to show that the Appellant/Claimant had used his Voter ID Card No. ARE 1144328 (Annexure-A) to cast his vote in the years 2012, 2014 and 2015 (prior to 01-01-2015). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut-off date of 01.01.2015 and his name also appears in the voter list of the year's 2014 & 2019 but no material is placed on file to show that his name appears in the Voter List of the year's 2012, 2014 and 2015 (prior to 01-01-2015), therefore, he Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

25. 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. B-64 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered two Ration Cards (Annexure-I & Annexure-J). The first Ration Card (Annexure-I) has been issued on 22.06.2002 in favour of his father Sohan Lal and the name of the Appellant/Claimant is mentioned. The second Ration Card (Annexure-J) has been issued in favour of his mother Savitri and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. 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 Jhuggi No. B-64. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

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26. The Appellant/Claimant has also tendered the Voter ID Card No. ARE 2160447 (Annexure-C), Aadhar Card (Annexure-D) & PAN Card (Annexure-E) of his wife Reena as well as Aadhar Card (Annexure-F) of his son Rishi, the Electricity Bill (Annexure-G) and the Passbook of SBI (Annexure-H).

27. It is pointed out that Voter ID Card No. ARE 2160447 (Annexure-C) of his wife Reena has been issued on 28.07.2017, much after the cutoff date 01.01.2015. The Electricity Bill (Annexure-G) shows that his wife Reena had taken electricity connection on 20.02.2017, much after the cut off date of 01.01.2015. The Passbook of SBI (Annexure-H) shows that his wife Reena had opened the account on 04.09.2018, much after the cutoff date 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these document do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not 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.

28. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in the voter list of the years 2012, 2014 and 2015 (prior to 01-01-2015). The documents, Annexure-A to Annexure-L, 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 separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

29. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-64 regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the years 2012, 2014 and 2015 (prior to 01-01-2015). Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

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30. 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. 385/7/106.1/1652 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

31. 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.

30/8/2023

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

30/8/2023

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

30/8/2023

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 10 of 2022

Date of Institution: 17.11.2022

Date of Order: 30.08.2023

Present: Appellant/Claimant Vimla Nagar W/o Dhram Pal Singh Nagar D/o Sagar Singh

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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. B-362, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-362 was found to exist on the ground floor 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, Bhoomiheen Camp, duly communicated its order bearing No.

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385/61/98.G/1311 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 10 of 2022 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 14.08.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-362 was found to exist on the ground floor but she had failed to submit required documents, i.e., Voter ID Card on the cutoff date of 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 07.11.2022 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 a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on 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. B-362 as per the policy guidelines issued by DDA

8. The statement of the Appellant/Claimant, Vimla Nagar, has been recorded before us on 14.08.2023, wherein she has stated that she was married with Dharampal and they are having three sons, Manoj, Vinod & Ravi and two daughters, Seema & Asha. Dharampal

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had expired on 01.11.1987. All the children are married. Asha is married with Lokesh and she is living in her matrimonial home in Tughlaqabad, Delhi. Seema is married with Dev Kumar and she is also living in her matrimonial home in Tughlaqabad, Delhi. Ravi is married with Kavita and he is also living in Tughlaqabad, Delhi. Manoj is married with Puja and he is living on rent in Tughlaqabad, Delhi. Vinod is married with Jyoti and having two children, Babu & Baby. Jyoti had deserted Vinod and now he is living with his parents in Bhoomiheen Camp, Kalkaji.

9. The Appellant/Claimant has stated that she is having a double storey Jhuggi No. B-362 and it comprises of one room on each floor and the ground floor is used as kitchen, whereas the first floor is used for residential purpose and a bamboo ladder is placed outside in the gali for going to the upper floor. The Appellant/Claimant has stated that she had sought allotment from DDA against the said double storey Jhuggi No. B-362 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 10 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-K, in support of her claim and prayed that DDA be directed to make allotment in her favour.

10. DDA has furnished the survey record along with five video clips pertaining to Jhuggi No. B-362. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 14.08.2023 wherein the Appellant/Claimant has stated that three video clips pertain to the ground floor of the Jhuggi No. B-362 in which her kitchen is seen and further, the next two video clips pertain to the first floor of the Jhuggi No. B-362 in which the room is seen and the Appellant/Claimant is also seen on the first floor and she is heard making statement that Vinod & Seema were living jointly with her but later on Seema had shifted to live on rent in Tughlaqabad, Delhi. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. B-362 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and it has been used for residential purposes by the Appellant/ Claimant.

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11. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-362 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the said Jhuggi for residential purposes.

12. 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, 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. B-362 as per the policy guidelines issued by DDA.

13. 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.

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

"Part-B

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

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

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

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

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

15. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and

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he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and 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.

16. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further 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. B-362 as per the policy guidelines issued by DDA.

17. The Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), PAN Card (Annexure-D), Voter List of the year 2009 (Annexure-H), Voter List of the year 2020 (Annexure-I), Voter List of the year 2021 (Annexure-J) and Voter List of the year 2023 (Annexure-K).

18. It is pointed out that the Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-B). The first Voter ID Card No. DL/03/035/246502 (Annexure-A) has been issued on 07.02.1995, much prior to the cutoff date 01.01.2015 and the second Voter ID Card No. ARE 2272425 (Annexure-B) has been issued on 25.04.2019, much after the cutoff date 01.01.2015. The Appellant/Claimant has failed to explain the reasons for having got two Voter ID Cards issued in her favour. This creates doubt and suspicion.

19. It is also pertinent to point out that the second Voter ID Card No. ARE 2272425 (Annexure-B) has been issued on 25.04.2019, much after the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 44 in the Voter List of the year 2020 (Annexure-I), at Sl. No. 44 in the Voter List of the year 2021 (Annexure-J) and at Sl. No. 43 in the Voter List of the year 2023 (Annexure-K) and in that the number of her Voter ID Card is mentioned to be ARE 2275425 (Annexure-B). The Voter ID Card No. ARE 2272425 (Annexure-B) as well as the Voter Lists (Annexure-I to Annexure-K) are not relevant because it pertains to the post relevant date of 01.01.2015.

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20. It is also pointed out that the name of the Appellant/Claimant appears at Sl. No. 251 in the Voter List of the year 2009 (Annexure-H) in which the number of her Voter ID Card is mentioned to be DL/03/035/246502(Annexure-A). The material placed on file shows that the Appellant/Claimant has used Voter ID Card No. DL/03/035/246502 (Annexure-A) to cast her vote in the election of 2009 and her name is reflected at Sl. No. 251 in the Voter List of the year 2009. However, no other Voter List is placed on file to show that the Appellant/Claimant had used the Voter ID Card No. DL/03/035/246502 (Annexure-A) after the year 2009 and more specifically in the years from 2012 to 2019. This shows that the Appellant/Claimant had not used the Voter ID Card No. DL/03/035/246502 (Annexure-A) after 2009 and it might have been cancelled by the Election Commission that is why no Voter Lists from the years 2012 to 2019 have been placed on file. Thus no material is placed on file to show that her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut-off date of 01.01.2015 but her name 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. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

21. The Appellant/Claimant has tendered Ration Card (Annexure-E), the Passbook of Bank of India (Annexure-F) and the Electricity Bill (Annexure-G) and.

22. It is pointed out that he Ration Car (Annexure-E) has been issued in favour of the Appellant/Claimant on 20.09.2014. The Passbook of Bank of India (Annexure-F) shows that the Appellant/Claimant had opened the account on 20.01.2000. The Electricity Bill (Annexure-G) shows that the Appellant/Claimant had taken the electricity connection on 17.11.2008. 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 name of the Appellant/ Claimant does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

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23. The material placed on file shows that the name of the Appellant/ Claimant does not appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey. The documents, Annexure-A to Annexure-K, 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. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory documents as the name of the Appellant/ Claimant does not appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

24. 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. 385/61/98.G/1311 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

25. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 313 of 2023

Date of Institution: 28.11.2022

Date of Order: 30.08.2023

Present: Appellant/ Claimant Shibu Sarkar S/o K M Sarkar

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 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-407, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Jhuggi bearing No. B-407 was found to be used solely for commercial purposes accordingly the Appellant/ Claimant was not entitled for alternate allotment as per the policy guidelines. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/26/141.G/887 dated 07.11.2022

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to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 313 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 13.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-Q, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, 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-407 was found to be used solely for commercial purposes and accordingly he was not found entitled for alternate allotment as per the policy guidelines. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Commercial"** 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's Jhuggi bearing No. B-407 was found to be exclusively used for commercial purposes and accordingly the present Appellant/Claimant is not entitled for alternate allotment as per the policy guidelines.

8. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-Q, in support of his claim and prayed that DDA be directed to make allotment in his favour. It is argued on behalf of the Appellant/ Claimant that he fulfills the criteria and possesses all the requisite documents. The Jhuggi bearing No. B-407 has been wrongly found to have been used solely for commercial purposes because its ground floor was

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used for running a **"Saree Shop"** whereas he along with his family was using the first floor of the said double storey Jhuggi No. B-407 for residential purposes on the cutoff date of 01.01.2015 and he has furnished documents in proof of residence.

9. 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 the Appellant/ Claimant must have all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and his name must also 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. But the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he had made wrong claim in collusion with his family members to claim alternate allotment from DDA in spite of the fact that he was not living in Jhuggi No. B-407 regarding which he has claimed allotment from DDA but instead on the cutoff date of 01.01.2015 he was found to be solely using the said Jhuggi for commercial purposes by running a **"Saree Shop"** from there and further he has come forward with a wrong & false story. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/26/141.G/887 dated 07.11.2022.

10. Therefore, it has to be first seen as to what is the legal position with regard to running of shop under the policy guidelines issued by DDA. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **<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."

11. The statement of the Appellant/Claimant, Shibu Sarkar, has been recorded before us on 13.07.2023, wherein he has stated that he is married with Shipra and having two daughters, Shreya & Sneha. Shreya is unmarried. Sneha was married with Bijoy on 16.05.2022 and she is now living in her matrimonial home in Mundka, Delhi.

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12. The Appellant/Claimant has stated that he is having a double storey Jhuggi No. B-407 and it comprises of one room on each floor and an iron ladder is placed inside the room on the ground floor for going to the upper.

13. The Appellant/Claimant has stated that the first floor is not having independent access from the gali but an iron ladder has been placed inside the room on the ground floor for going to the upper floor. This shows that the ground & first floors of the Jhuggi No. B-407 are not separate & independent dwelling units because the first floor is not having an independent access from the gali. However, in order to reach the first floor, one has to use the iron ladder, which has been placed inside the room on the ground floor. Therefore, both the ground & first floors of Jhuggi No. B-407 are not separate & independent dwelling units but both are part & parcel of one dwelling unit of Appellant/Claimant.

14. The Appellant/Claimant has stated that he is having a double storey Jhuggi No. B-407 and it comprises of one room on each floor and an iron ladder is placed inside the room on the ground floor for going to the upper. The room on the ground floor is used for commercial purposes as **"Saree Shop"** whereas the room on the first floor is used for residential purpose and it is also having a kitchen. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi No. B-407 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 313 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-Q, in support of his claim and prayed that DDA be directed to make allotment in his favour.

15. It is pointed out that the survey records as well as the video clips pertaining to Jhuggi No. B-407 prepared by the survey team are not annexed with the file and the same are not traceable and accordingly could not be placed on file by DDA.

16. The Appellant/Claimant has tendered a Pen Drive (Annexure-Q) containing the video clips of the Jhuggi No. B-407 which was played before the Appellant/Claimant when his statement was recorded before us on 13.07.2023 wherein he has stated that in the video clip a **"Saree Shop"** is seen on the ground floor and further an iron ladder, which is placed inside the room on the ground floor and used for going to the upper floor is

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also seen and further his room & kitchen on the first floor are seen and other household articles are also seen lying there.

17. The noting recorded by the Eligibility Determination Committee shows that the ground was found to have been used for commercial purposes but there is complete silence as to what was found on the first floor of Jhuggi No. B-407. But the statement of the Appellant/Claimant as well as the video contained in the pen-drive (Annexure-Q) shows that the Jhuggi No. B-407 is used by the Appellant/Claimant for residential as well as commercial purposes. Therefore, the statement of the present Appellant/ Claimant has been duly corroborated by the video clips contained in the pen drive placed on record by the Appellant/Claimant thereby showing that the ground & first floors of the Jhuggi No. B-407 are not separate & independent dwelling units because the first floor is not having an independent access from the gali. However, in order to reach the first floor, one has to use the iron ladder, which has been placed inside the room on the ground floor of the said Jhuggi No. B-407. Therefore, both the ground & first floors of Jhuggi No. B-407 are not separate & independent dwelling units but both are part & parcel of one dwelling unit of Appellant/Claimant. The ground floor of the Jhuggi No. B-407 is used by the Appellant/Claimant for commercial purposes as a **"Saree Shop"** whereas the first floor is used by him for residential purposes. Therefore, the double storey Jhuggi No. B-407 is a single dwelling unit and it is used for residential-cum-commercial purposes as the Appellant/Claimant was running a shop from the ground floor for selling sarees whereas the first floor has been used by the Appellant/Claimant for residential purposes.

18. The condition contained in Part–B Paras No. 8 & 9 of DDA policy detailed in Para No. 10 runs as under:

> *"8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose."*
> *"9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person."*

19. As per our discussion above, the statement of the Appellant/Claimant as well as the video contained in the pen-drive (Annexure-Q) has duly proved that the Jhuggi No. B-

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407 is used by the Appellant/Claimant for Residential-cum-Commercial purposes and on the cutoff date of 01.01.2015 it was not solely used for commercial purposes but on the other hand it was put to mixed use as commercial & residential by the Appellant/Claimant, Shibu Sarkar.

20. The bare perusal of the Policy detailed in Para No. 10 above shows that for claiming allotment the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

21. Now we shall first appraise the material placed on file to determine the eligibility of the present Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in 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.

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

23. The Appellant/Claimant has tendered his Voter ID Card No. CXY 1071653 (Annexure-A), Aadhar Card (Annexure-B), Voter List of the year 2012 (Annexure-K), Voter List of the year 2013 (Annexure-L), Voter List of the year 2014 (Annexure-M), Voter List of the year 2015 (Annexure-N) and Voter List of the year 2019 (Annexure-O).

24. It is pointed out that the Voter ID Card No. CXY 1071653 (Annexure-A) has been issued on 06.03.2002, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 324 in the Voter List of the year 2012

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(Annexure-K), at Sl. No. 324 in the Voter List of the year 2013 (Annexure-L), at Sl. No. 399 in the Voter List of the year 2014 (Annexure-M), at Sl. No. 427 in the Voter List of the year 2015 (Annexure-N) and at Sl. No. 472 in the Voter List of the year 2019 (Annexure-O).

25. It is also pointed out in the Voter List of the years 2012 to 2019, Annexure-K to Annexure-O, the number on the Voter ID Card of the Appellant/Claimant is mentioned to be CXY 1071653 (Annexure-A) and further the address is mentioned to be Jhuggi No. B-407 regarding which he is claiming allotment from DDA. This shows that the Appellant/Claimant had used the Voter ID Card No. CXY 1071653 (Annexure-A) to cast his vote from the years 2012 to 2019 as reflected in the Voter Lists (Annexure-K to Annexure-O). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA.

26. The Appellant/Claimant has tendered his two Ration Cards (Annexure-I & Annexure-J). The first Ration Card (Annexure-I) has been issued in favour of the Appellant/Claimant on 02.07.2009 in which the name of his family members have been mentioned. The new Ration Card has also been issued in favour of the Appellant/Claimant on 06.12.2014 in which the name of his family members have been mentioned. Both the Ration Cards (Annexure-I & Annexure-J) have been issued much prior to the cutoff date 01.01.2015. Further both the Ration Cards (Annexure-I & Annexure-J) have been issued on the address of the Jhuggi No. B-407 regarding which the Appellant/Claimant has sought allotment from DDA. This again corroborates the statement of the Appellant/Claimant that the Jhuggi No. B-407 has been put to mixed use as commercial & residential by him.

27. The Appellant/Claimant has tendered the Voter ID Card No. CXY 1077197 (Annexure-C) & Aadhar Card (Annexure-D of his wife Shipra Sarkar, the Electricity Bill (Annexure-E), Aadhar Card (Annexure-F) of his daughter Shreya and Voter ID Cards (Annexure G & Annexure-H) of his daughters Shreya & Sneha.

28. It is pointed out that the Voter ID Card No. CXY 1077197 (Annexure-C) of his wife Shipra Sarkar has been issued on 24.02.2011, much prior to the cutoff date of

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01.01.2015. The Voter ID Card No. ARE 2209658 (Annexure G) of his daughter Shreya has been issued on 21.02.2019 whereas the Voter ID Card No. ARE 2209668 (Annexure H) of his daughter Sneha has been issued on 21.02.2010, much prior to the cutoff date of 01.01.2015. The Electricity Bill (Annexure-E) shows that the connection has been taken by Appellant/Claimant on 13.05.2008, much prior to the cutoff date 01.01.2015. It is pointed out that the above mentioned documents are corroborating the claim of the present Appellant/Claimant to the effect that Jhuggi No. B-407 is not used solely for commercial purposes but it is put to mixed use as commercial & residential because the Appellant/Claimant is running a shop for selling "Sarees" on the ground floor of the Jhuggi No. B-407 whereas the first floor of the said Jhuggi No No. B-407 is used for residential purposes by the Appellant/Claimant and his family.

29. The material placed on file shows that the Jhuggi No. B-407, Bhoomiheen Camp is a double storey Jhuggi, which comprises of one room on each floor and an iron ladder has been placed inside the room on the ground floor and it is used for going to the upper floor. The Appellant/Claimant is running a shop for selling sarees on the ground floor of Jhuggi No. B-407 whereas the first floor is used by him for residential purposes. The Jhuggi No. B-407 was not been used solely for commercial purposes on the cutoff date of 01.01.2015 but it was put to mixed used for commercial & residential purposes and the same has been duly substantiated by the pen-drive furnished by the Appellant/ Claimant and further the Appellant/ Claimant was having all the requisite documents, including Voter ID card & Ration Card, on the cutoff date of 01.01.2015 and his name also appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

30. Hence, we have no hesitation in holding that the Jhuggi No. B-407 at the time of cutoff date of 01.01.2015 was & is still being used for both residential & commercial purposes and accordingly, the claim put forward by the present Appellant/Claimant has been fully covered under the condition contained in Part–B Paras No. 8 & 9 of DDA policy and further the Appellant/ Claimant was having all the requisite documents, including Voter ID card & Ration Card, on the cutoff date of 01.01.2015 and his name also appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA.

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31. In view of our findings above, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/ Claimant fulfills the eligibility criteria as per the guidelines issued by DDA but the Eligibility Determination Committee has wrongly and illegally rejected his claim. Hence the present Appeal No. 313 of 2023 stands allowed, hereby, setting aside the impugned order bearing No. 385/26/141.G/887 dated 07.11.2022. DDA is hereby directed to make allotment in favour of Appellant/ Claimant Shibu Sarkar S/o K M Sarkar in respect of the Jhuggi No. B-407, Bhoomiheen Camp, Kalkaji.

32. 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.

30/8/2023

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

30/8/2023

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

30/8/2023

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 387 of 2023

Date of Institution: 29.11.2022

Date of Order: 30.08.2023

Present: None for the Appellant/ Claimant Rinki W/o Samerr Gain D/o Dilip Karnakar

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 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. B-226, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-62 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/37/41.2/1007 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 387 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-226 was found to exist on the upper floor but she had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure her presence but without any response as she has never appeared before us. The perusal of the Zimni Orders shows that the Appeal was

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put up before us for the first time on 18.01.2023 but the Appellant/ Claimant had failed to appear on 18.01.2023 and the matter was fixed for 24.02.2023 for procuring his presence. But the Appellant/ Claimant did not appear on 24.02.2023 and accordingly fresh notice for 27.03.2023 was issued to procure the appearance of the present Appellant/ Claimant. But the Appellant/ Claimant did not appear on 27.03.2023 and accordingly fresh notice for 26.04.2023 was issued to procure the appearance of the present Appellant/ Claimant. But she had failed to appear on 26.04.2023. Fresh notice was issued on 26.04.2023 to procure her presence for 16.05.2023. But the file was taken up on 08.05.2023 and the appeal was fixed for 04.08.2023 to give priority to other cases and fresh notice was issued to procure his presence for 04.08.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 04.08.2023 in spite of due service.

7. On 04.08.2023 fresh notice was issued for 07.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

8. However, still none appeared on 07.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 09.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

9. However, still none appeared on 09.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 10.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

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10. However, still none appeared on 10.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 16.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

11. However, still none appeared on 16.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 30.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

12. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 30.08.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 387 of 2023 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether she is entitled for alternate allotment as per policy guidelines issued by DDA.

13. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

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14. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & Ration Card etc. as on 01.01.2015 and 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. The documents available on file 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.

15. In view of the matter the present we have no hesitation in holding that 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. 385/37/41.2/1007 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 387 of 2022 instituted on 29.11.2022 is dismissed being devoid of any merit.

16. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 391 of 2023

Date of Institution: 29.11.2022

Date of Order: 30.08.2023

Present: None for the Appellant/ Claimant Bibha Das W/o Suchandra Das

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 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. B-618, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-618 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/44/24.1/1076 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 391 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-618 was found to exist on the upper floor but she had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

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put up before us for the first time on 18.01.2023 but the Appellant/ Claimant had failed to appear on 18.01.2023 and the matter was fixed for 24.02.2023 for procuring his presence. But the Appellant/ Claimant did not appear on 24.02.2023 and accordingly fresh notice for 27.03.2023 was issued to procure the appearance of the present Appellant/ Claimant. But the Appellant/ Claimant did not appear on 27.03.2023 and accordingly fresh notice for 26.04.2023 was issued to procure the appearance of the present Appellant/ Claimant. But she had failed to appear on 26.04.2023. Fresh notice was issued on 26.04.2023 to procure her presence for 16.05.2023. But the file was taken up on 08.05.2023 and the appeal was fixed for 04.08.2023 to give priority to other cases and fresh notice was issued to procure his presence for 04.08.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 04.08.2023 in spite of due service.

7. On 04.08.2023 fresh notice was issued for 07.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

8. However, still none appeared on 07.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 09.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

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10. However, still none appeared on 10.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 16.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

11. However, still none appeared on 16.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 30.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

12. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 30.08.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 391 of 2023 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether she is entitled for alternate allotment as per policy guidelines issued by DDA.

13. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

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14. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & Ration Card etc. as on 01.01.2015 and 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. The documents available on file 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.

15. In view of the matter the present we have no hesitation in holding that 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. 385/44/24.1/1076 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 391 of 2023 instituted on 29.11.2022 is dismissed being devoid of any merit.

16. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 407 of 2023

Date of Institution: 29.11.2022

Date of Order: 30.08.2023

Present: Appellant/ Claimant Sharmila Mandal W/o Sandi p Kumar Mandal

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

3. 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-335, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-335

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was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/61/25.G-A/1273 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 407 of 2023 has been filed by the present Appellant/Claimant.

4. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

5. The statement of the Appellant/Claimant has been recorded before us on 16.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-T, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

6. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

7. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-335 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

8. 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 a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list

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of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi bearing No. A-335 as per the policy guidelines issued by DDA

9. The statement of the Appellant/Claimant, Sharmila Mandal, has been recorded before us on 16.08.2023 wherein she has stated that her in-laws, Shakti & Kalpana, are having one son Sandip and two daughters; Anita & Rita. All the children are married. Rita is married with Rakesh and she is living in her matrimonial home in her matrimonial home in Bhoomiheen Camp, Kalkaji and DDA has made allotment in her favour from her matrimonial side. Anita is married with Sukhan and she is living with her parents in Bhoomiheen Camp, Kalkaji. Sandip is married with Sharmila (Appellant/Claimant) and having two sons, Rajbir & Dipanshu.

10. The Appellant/Claimant has stated that her family is having a triple storey bearing No. A-335 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

11. The Appellant/Claimant has stated that her in-laws, Shakti & Kalpana, along with the family of their daughter Anita are living on the ground floor of the Jhuggi No. A-335 and regarding that, DDA has made allotment in favour of her father-in-law, Shakti. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that she along with her husband Sandeep and both the sons, Rajbir & Dipanshu, is living on the first & the second floors of the Jhuggi No. A-335. The Appellant/Claimant has sought allotment from DDA against the first & the second floor but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 407 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered her documents, Annexure-A to Annexure-T, in support of her claim and prayed that DDA be directed to make allotment in her favour.

13. DDA has furnished the survey record along with four video clips pertaining to the Jhuggi No. A-335. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 16.08.2023 wherein she has stated that two video clips pertain to the ground floor of the Jhuggi No. A-335 in which her father-in-

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law, Shakti Mandal, is seen and further, his room & kitchen are also seen. The next two video clips pertain to the first floor of the Jhuggi No. A-335 in which the Appellant/Claimant Sharmila is seen and further, the first floor is clearly seen to be used as kitchen and no cot or another household articles are seen lying on the first floor. The video of the second floor is not available. However, the photographs taken by the survey team at the time of the survey is placed on file and the same corroborates the statement of the Appellant/Claimant that she along with her family was living on the first and the second floor of the Jhuggi No. A-335. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that triple storey Jhuggi No. A-335 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and her in-laws, Shakti & Kalpana, are living on the ground floor of the Jhuggi No. A-335 whereas the Appellant/Claimant along with her family is living separately & independently on the first & second floors of the said Jhuggi No. A-335.

14. Accordingly, we have no hesitation in holding that a triple storey Jhuggi No. A-335 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with her family is using the first & second floors of the said Jhuggi for residential purposes.

15. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor 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-T, 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

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separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in 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. 385/61/25.G-A/1273 dated 07.11.2022.

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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

19. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

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DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

20. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

22. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether

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she is entitled to claim allotment against the first floor of Jhuggi No. A-335 as per the policy guidelines issued by DDA.

24. The Appellant/Claimant has tendered her Voter ID Card No. ARE 2249464 (Annexure-A), Aadhar Card (Annexure-B) & PAN Card (Annexure-C).

25. It is pointed out that the Voter ID Card No. ARE 2249464 (Annexure-A) has been issued on 20.03.2019, much after the cut off date of 01.01.2015 and accordingly, the question of her name appearing in the Voter Lists of the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also of 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 cut- off date of 01.01.2015 and 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.

26. The Appellant/Claimant has admitted that she 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. A-335 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered three Ration Cards (Annexure-Q to Annexure-S) and the Application (Annexure-T) downloaded from the internet. The first Ration Card (Annexure-Q) has been issued on 22.06.2002 in favour of her father-in-law Shakti Pada and the name of the Appellant/Claimant is mentioned therein. The second Ration Card (Annexure-R) has also been issued in favour of her mother-in-law, Kalpana, and the name of the husband of the Appellant/Claimant has been mentioned but that of the Appellant/Claimant is not mentioned and further, the date of issuance is also not mentioned. The Third Ration Card bearing No. 077005308858 (Annexure-S) has been issued in favour of the Appellant/Claimant on 11.02.2023, much after the cut off date of 01.01.2015 and the name of her husband Sandeep and son is mentioned. The Application (Annexure-T) downloaded from the internet also shows that the Appellant/Claimant had applied for issuance of Ration Card on 13.06.2022, much after the cut off date of 01.01.2015 and in that the status of her Ration Card is shown to have been "Pending" as on 19.11.2022. As pointed out above, the Ration Card No. 077005308858 (Annexure-S) has been issued on 19.11.2022, much after the cut off date of 01.01.2015. The fact remains that the Appellant/Claimant was not having a

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separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-335 regarding which she 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

27. The Appellant/Claimant has tendered the Passbook of SBI (Annexure-D) as well as the Voter ID Card No. CXY 1497064 (Annexure-E), Aadhar Card (Annexure-F) & PAN Card (Annexure-G), Driving Licence (Annexure-H) & Passport (Annexure-I) of her husband Sandeep and the Passbook of SBI (Annexure-J), Aadhar Cards of her sons Rajbir & Dipanshu (Annexure-K & Annexure-L), Electricity Bill (Annexure-M), the Voter List of the year 2013 (Annexure-N), the Voter List of the year 2015 (Annexure-O) and the Voter List of the year 2019 (Annexure-P).

28. It is pointed out that the Passbook of SBI (Annexure-D) shows that the Appellant/Claimant had opened the account on 27.03.2019, much after the cut off date of 01.01.2015. The Voter ID Card No. ARE CXY 1497064 (Annexure-E) of her husband Sandeep had been issued on 24.11.2009 and his name appears in the Voter List of the years 2013 (Annexure-N), 2015 (Annexure-O) & 2019 (Annexure-P). It is also pointed out that the Driving Licence (Annexure-H) of her husband Sandeep has been issued on 20.01.2009 and the Passport (Annexure-I) of Sandeep has been issued on 13.03.2015. The Passbook of SBI (Annexure-J) shows that the Appellant/Claimant had opened the account on 05.12.2020. The Electricity Bill (Annexure-M) shows that the electricity connection has been taken by the Appellant/Claimant on 03.12.2021, much after the cut off date of 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because this document does 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 cut- off date of 01.01.2015 and 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.

29. The material placed on file shows that the Appellant/ Claimant was not having a voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-335 regarding which she is claiming

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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. The documents, Annexure-A to Annexure-T, 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.

30. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-335 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, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

31. 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. 385/61/25.G-A/1273 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

32. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 502 of 2023

Date of Institution: 01.12.2022

Date of Order: 30.08.2023

Present: Appellant/ Claimant Manisha Devi W/o Mukesh D/o Lakahantu Ram

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 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-354, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-354 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate

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allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/68/5.1/1548 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 502 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 25.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-354 was found to exist on the upper floor but she had failed to submit required documents, i.e., 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 her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on 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

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allotment against the first floor of Jhuggi bearing No. B-354 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Manisha, has been recorded before us on 25.07.2023 wherein she has stated that her in-laws, Sant Ram & Dwija Devi, are having four sons, Prakash, Rajesh, Rakesh & Mukesh. All the children are married. Prakash is married with Meela and having five children. Rajesh is married with Rita and having three children. Rakesh is married with Parmila and having three children. Mukesh is married with Manisha (Appellant/Claimant) and having three children, Jhanvi, Diksha & Dev.

9. The Appellant/Claimant has stated that her family is having three separate Jhuggis in Bhoomiheen Camp, Kalkaji, which are bearing Jhuggi No. C-353, Jhuggi No. C-354 & Jhuggi No. C-355.

10. The Appellant/Claimant has stated that Jhuggi No. C-353 is a single storey Jhuggi and regarding that DDA has made allotment in favour of her brother-in-law, Rakesh. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that Jhuggi No. C-355 is also a single storey Jhuggi and regarding that DDA has made allotment in favour of her brother-in-law, Prakash. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that the third Jhuggi bearing No. C-354 is a double storey Jhuggi and it comprises of one room on the ground floor and two rooms on the first floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

13. The Appellant/Claimant has stated that her in-laws, Sant Ram & Dwija Devi, are living on the ground floor of the Jhuggi No. C-354 and regarding that DDA has made allotment in favour of her mother-in-law, Dwija Devi. These facts are not disputed by DDA.

14. The Appellant/Claimant has stated that her brother-in-law, Rajesh, along with his wife Rita and all the children is living in one of the rooms on the first floor of Jhuggi No. C-354 and regarding that DDA has made allotment in favour of Rita W/o Rajesh. These facts are not disputed by DDA.

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15. The Appellant/Claimant has stated that she along with her husband Mukesh and all the three children, Jhanvi, Diksha & Dev, is living in the second room on the first floor of Jhuggi No. C-354 and regarding that the Appellant/Claimant has sought allotment from DDA but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 502 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-J, in support of her claim and prayed that DDA be directed to make allotment in her favour.

16. DDA has furnished the survey record along with four video clips pertaining to Jhuggi No. C-354. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 25.07.2023 wherein the Appellant/Claimant has stated that two video clips pertain to the ground floor of the Jhuggi No. C-354 in which her mother-in-law, Dwija Devi, is seen and further, her room & kitchen are also seen. The third video clip pertains to the first floor of Jhuggi No. C-354 in which a pucca staircase going from ground floor to the first floor is seen and Rita W/o Rajesh is seen and further her room & kitchen are also seen. The fourth video clip pertains to the second room on the first floor of the Jhuggi No. C-354 in which the Appellant/Claimant Manisha is seen and further, her room and kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. C-354 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the ground floor has been used for residential purposes by her in-laws, Sant Ram & Dwija Devi, and one of the room on the first floor has been used for residential purposes by her brother-in-law, Rajesh, whereas the second room on the first floor is used for residential purposes by the Appellant/ Claimant.

17. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-354 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

18. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name

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appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi No. C-354 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-J, 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. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the 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. 385/68/5.1/1548 dated 07.11.2022.

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.

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

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

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

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- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

22. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

23. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

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25. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

26. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi No. C- 354 as per the policy guidelines issued by DDA.

27. The appellant/Claimant has tendered Voter ID Card No. ARE 2024958 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2015 (Annexure-I) and Voter List of the year 2019 (Annexure-J).

28. It is pointed out that the Voter ID Card No. ARE 2024958 (Annexure-A) has been issued on 20.10.2015, much after the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 649 in the Voter List of the year 2015 (Annexure-I) and at Sl. No. 28 in the Voter List of the year 2019 (Annexure-J). The Voter ID Card No. ARE 2024958 (Annexure-A) has been issued on 20.10.2015, much after the cutoff date 01.01.2015 and accordingly the question of her name appearing in the Voter List of the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015) does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 and her name appears in the Voter List of the year 2019 but her name does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015), therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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29. The Appellant/Claimant has stated that she 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. C-354 regarding which she 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. C-354 regarding which she 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

30. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1184092 (Annexure-D) & Aadhar Card (Annexure-E) of her husband Mukesh and Passbook of ESAF (Annexure-F), Aadhar Card (Annexure-G) of her daughter Jhanvi and the Voter List of the year 2008 (Annexure-H).

31. It is pointed out that the Voter ID Card No. ARE 1184092 (Annexure-D) & Aadhar Card (Annexure-E) of her husband Mukesh has been issued on 27.10.2008. The name of her husband Mukesh appears at Sl. No. 361 in he Voter List of the year 2008 (Annexure-H) but no other voter list has been placed on file to show that he had used the Voter ID Card No. ARE 1184092 (Annexure-D) to cast his vote on any subsequent years and more specifically in the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The Passbook of ESAF (Annexure-F) shows that the account was opened on 01.01.2021, much after the cutoff date 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor.

32. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card & separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B- 354 regarding which she is claiming allotment from DDA and further the name of the Appellant/ Claimant does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). The documents, Annexure-A to

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Annexure-J, 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.

33. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-354 regarding which she is claiming allotment from DDA and further she has not tendered the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

34. 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. 385/68/5.1/1548 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

35. 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.

30/8/2023

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

30/8/2023

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

30/8/2023

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 520 of 2023

Date of Institution: 02.12.2022

Date of Order: 30.08.2023

Present: Appellant/Claimant Dilip S/o Abni Burman

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-285, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-285 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/58/0031.1-A/1130 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 520 of 2023 has been filed by the present Appellant/Claimant.

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3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 02.8.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-285 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of Jhuggi bearing No. A-285 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Dilip Burman, has been recorded before us on 02.08.2023 wherein he has stated that his parents, Abni & Shanti, are having two sons; Dilip & Raju and two daughters; Anupama & Sushma. All the children are married. Anupama is married with Anup and Sushma is married with Pankaj and they are living in their respective matrimonial homes in Delhi. Raju is married with Shivani

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and having one daughter Ridhi. Dilip (Appellant/Claimant) is married with Santona and having two children; Piyush & Karishma.

9. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi bearing No. A-285 and it comprise of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that his parents, Abni & Shanti, are living on the ground floor of the Jhuggi No. A-285 regarding which DDA has made allotment in favour of his mother Shanti. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that his brother Raju along with his wife Shivani and daughter Ridhi is living on the second floor but he had not sought allotment from DDA regarding the second floor. These facts are not disputed

12. The Appellant/Claimant has stated that he along with his wife Santona and children Piyush & Karishma is living on the first floor of the Jhuggi No. A-285. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. A-285 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 520 of 2023 before the Appellate Authority for redressal. 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.

13. DDA has furnished the survey record along with three video clips pertaining to the Jhuggi No. A-285. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 02.08.2023 wherein he has stated two video clips pertain to the ground floor of the Jhuggi No. A-285 in which his mother Shanti is seen and further, her room & kitchen are also seen and she is also heard stating that the Jhuggi is a triple storey structure. Further, a pucca staircase going from the ground floor to the first floor is also seen. The third video clip pertains to the first floor of the Jhuggi No. A-285 in which the Appellant/Claimant is seen and further, his room & kitchen are also seen. The video of second floor was not prepared. But there is nothing to disbelieve the statement of the Appellant/Claimant that Jhuggi No. A-285 is a triple storey structure. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that triple storey Jhuggi No. A-285 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and his parents,

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Abni & Shanti, are living on the ground floor of the Jhuggi No. A-285 whereas the Appellant/Claimant along with his family is living separately & independently on the first floor of the said Jhuggi No. A-285.

14. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-285 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant is using the first floor of Jhuggi No. A-285 for residential purposes.

15. 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 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. A-285 as per the policy guidelines issued by DDA.

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name 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. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/58/0031.1-A/1130 dated 07.11.2022.

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>**

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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.

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

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

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- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the

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purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor of Jhuggi No. A-285 as per the policy guidelines issued by DDA

23. The Appellant/Claimant has tendered his Voter ID Card No. CXY 1072966 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-M) and Voter List of the year 2019 (Annexure-N).

24. It is pointed out that the Voter ID Card No. CXY 1072966 (Annexure-A) has been issued on 06.03.2002, much prior to the cutoff date of 01.01.2015. Further, the name of the Appellant/Claimant appears at Sl. No. 437 in the Voter List of the year 2014 (Annexure-M) and at Sl. No. 492 in the Voter List of the year 2019 (Annexure-N). But the Appellant/ Claimant has not tendered the Voter List of the year's 2012, 2013 and 2015 (prior to 01-01-2015) to show that he had used the Voter ID Card No. CXY 1072966 to cast vote in these years. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in the voter list of the year 2014 and 2019 but no material is placed on file to show that his name appears in the Voter List of the year's 2012, 2013 and 2015 (prior to 01-01-2015), therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

25. 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 the first floor of the Jhuggi No. A-285 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered three Ration Cards (Annexure-J to Annexure-L). The first Ration Card (Annexure-J) has been issued in the month of August 2008 in favour of his father Abni

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@ Abhi and the name of the Appellant/Claimant has been mentioned. The second Ration Card (Annexure-K) has been issued on 08.12.2014 in favour of his mother Shanti Burman and the name of the Appellant/Claimant as well as of his wife Santona has also been mentioned therein. The third Ration Card (Annexure-L) has been issued in favour of his wife Santona Burman on 16.08.2019, much after the cutoff date of 01.01.2015 and the name of the Appellant/Claimant and of his daughter has been mentioned. 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. A-285 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

26. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1130210 (Annexure-D), Aadhar Card (Annexure-E), PAN Card (Annexure-F) of his wife Santona as well as Electricity Bill (Annexure-G), Passbook of PNB (Annexure-H) & Passbook of Indian Bank (Annexure-I).

27. It is pointed out that the Voter ID Card No. ARE 1130210 (Annexure-D) of his wife Santona has been issued on 27.10.2008. The Electricity Bill (Annexure-G) shows that the electricity connection has been taken by his father Abhi on 12.06.2008 on the ground floor of the Jhuggi No. A-285 thereby showing that the Appellant/Claimant was not having a separate electricity connection on the first floor of the Jhuggi No. A-285 regarding which the Appellant/Claimant is seeking allotment from DDA. The Passbook of PNB (Annexure-H) shows that the account has been opened by the Appellant/Claimant on 24.03.2022 and the Passbook of Indian Bank (Annexure-I) shows that his wife Santona has opened the account on 10.01.2014. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because this document does 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 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.

28. The material placed on file shows 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. A-285 regarding which he is claiming allotment from DDA and

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further the name of the Appellant/ Claimant does not appear in the Voter List of the year's 2012, 2013 and 2015 (prior to 01-01-2015). The documents, Annexure-A to Annexure-N, 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.

29. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-285 regarding which he is claiming allotment from DDA and further he has not tendered the Voter List of the year's 2012, 2013 and 2015 (prior to 01-01-2015). Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

30. 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. 385/58/0031.1-A/1130 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

31. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 629 of 2023

Date of Institution: 26.12.2022

Date of Order: 30.08.2023

Present: Appellant/ Claimant Patai Ram S/o Hari Ram

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 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-508, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-508 was found to exist on the ground floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the

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claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/19/39.G/816 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 629 of 2022 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 18.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-81 was found to exist on the ground floor but he had failed to submit required documents, i.e., Voter ID Card 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 07.11.2022 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 a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi bearing No. B-508 as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant, Patai Ram, has been recorded before us on 18.08.2023 wherein he has stated that he is married with Anari Devi and having two sons, Subhash & Dharmender and four daughters, Priyanka, Gita, Sunita & Sarita. All the children are married. All the four daughters are living in their respective matrimonial homes in Jaunpur, Uttar Pradesh. Subhash is married with Meena and having two children, Bodhu & Govind. Dharmender is married with Sarita and having five children, Shikha, Neelu, Poonam, Shalu & Amit.

9. The Appellant/Claimant has stated that he is having a single storey Jhuggi No. B-508 and regarding that he has sought allotment from but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 629 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make allotment in his favour.

10. DDA has furnished the survey record along with five video clips pertaining to Jhuggi No. B-508. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 18.08.2023 wherein the Appellant/Claimant has stated that all the video clips pertain to the single storey structure of Jhuggi No. B-508 in which Sunita who is daughter-in-law of the Appellant/Claimant is seen and further, the room & kitchen of the Appellant/Claimant are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that single storey Jhuggi No. B-508 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family is living there.

11. Accordingly, we have no hesitation in holding that the Jhuggi No. B-508 in Bhoomiheen Camp is a pucca single storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further, the Appellant/ Claimant & his family is living in the said Jhuggi.

12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on

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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-508 as per the policy guidelines issued by DDA.

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

14. 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."

15. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and 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.

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16. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against Jhuggi bearing No. B-508 as per the policy guidelines issued by DDA.

17. The Appellant/Claimant has tendered two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), PAN Card (Annexure-D), Voter List of the year 2009 (Annexure-K) and Voter List of the year 2023 (Annexure-L).

18. 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 getting two Voter ID Cards issued in his favour.

19. The first Voter ID Card bearing number DL/03/035/246003 (Annexure-A) has been issued on 07.02.1995 and the name of the Appellant/Claimant appears at Sl. No. 729 in the Voter List of the year 2009 (Annexure-K). This shows that the Voter ID Card No. DL/03/035/246003 (Annexure-A) has been only used once in the year 2009 to cast vote but no Voter Lists have been placed on file to show this Voter ID Card was also used thereafter to cast vote and more specifically from the years 2012 to 2019. This Voter ID Card even might have cancelled by the Election Commission for having not used after 2009 and that is why the Appellant/Claimant had got the second Voter ID Card bearing number ARE 2608396 (Annexure-B) issued on 23.11.2022.

20. The second Voter ID Card bearing number ARE 2608396 (Annexure-B) has been issued on 23.11.2022 and the name of the Appellant/Claimant appears at Sl. No. 1365 in the Voter List of the year 2023 (Annexure-L). However, the Voter ID Card No. ARE 2608396 (Annexure-B) and Voter List of the year 2023 (Annexure-L) are not relevant because it relates to the post relevant date of 01.01.2015.

21. It is pointed out that the Voter ID Card No. DL/03/035/246003 (Annexure-A) has been used to cast vote in the year 2009. But the Appellant/ Claimant has not tendered the Voter List

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of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also of the year of survey to show that he had used the Voter ID Card No. DL/03/035/246003 to cast vote in these years. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in the voter list of the year 2023 but no material is placed on file to show that his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, he Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

22. The Appellant/Claimant has tendered Voter ID Card CXY 1545599 (Annexure-E) of his son Dharmender, Voter ID Card No. DL/03/035/246009 (Annexure-F) of his wife Anari Devi, the Passbook of PNB (Annexure-G), the Passbook of Bank of India (Annexure-H), Ration Card (Annexure-I) and the Electricity Bill (Annexure-J).

23. It is pointed out that Voter ID Card No. CXY 1545599 (Annexure-E) of his son Dharmender has been issued on 19.12.2005. The Voter ID Card No. DL/03/035/246009 (Annexure-F) of his wife Anari Devi has been issued on 07.02.1995. But no Voter Lists have been placed on file to show that his son Dharmender and his wife Anari have used their Voter ID Cards to cast vote in any of the elections and more specifically from the years 2012 to 2019. The Passbook of PNB (Annexure-G) shows that the Appellant/Claimant had opened the account on 05.09.2013 and the Passbook of Bank of India (Annexure-H) shows that the Appellant/Claimant had opened the account on 15.02.1985. The Electricity Bill (Annexure-J) shows that the Appellant/Claimant had taken electricity connection on 21.06.2008. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these document do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the name of the Appellant/ Claimant does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

24. The material placed on file shows that the name of the Appellant/ Claimant does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents, Annexure-A to Annexure-L, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in

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his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the name of the Appellant/ Claimant does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

25. 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. 385/19/39.G/816 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

30/8/2023

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

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(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 707 of 2023

Date of Institution: 06.02.2022

Date of Order: 30.08.2023

Present: Appellant/ Claimant Bablu Dey S/o Hari Kishan Dey

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 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-545, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-545 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate

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allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/44/18.1/1073 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 707 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 09.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-545 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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

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entitled to claim allotment against the first floor of the Jhuggi bearing No. B-545 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Bablu Dey, has been recorded before us on 09.08.2023 wherein he has stated that his parents, Hare Krishnan Dey & Sukhrani, are having two sons; Bablu & Vishal and one daughter Pinki. Bablu & Vishal are unmarried. Pinki is married with Kartik and having two children and she is living in her matrimonial home in Madanpur Khadar, Delhi.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi bearing No. B-545 and it comprises of one room on each floor and an iron ladder has been placed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that his parents, Hare Krishnan & Sukhrani, are living on the ground floor of the Jhuggi No. B-545 regarding which DDA has made allotment in favour of his mother Sukhrani. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his unmarried brother Vishal is living on the first floor of the Jhuggi No. B-545. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. B-545 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 707 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant tendered documents, Annexure-A to Annexure-I, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished the survey record along with five video clips pertaining to the Jhuggi No. B-545. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 09.08.2023 wherein he has stated that all the five video clips pertain to the ground floor of the Jhuggi No. B-545 in which his parents, Hare Krishan & Sukhrani, are seen on the ground floor of the Jhuggi No. B-545 and further their room & kitchen are also seen. There is no video clip of the first floor. The Appellant/Claimant has stated that he has got the video clip prepared on the first floor but only the photographs were taken. The photographs taken by the survey team are placed on file and it corroborates the statement of the Appellant/Claimant that the Jhuggi No. B-545 is a double storey structure and the Appellant/Claimant was living on

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the first floor. 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-545 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and ground floor has been used for residential purposes by his parents, Hare Krishnan & Sukhrani, whereas the first floor is used by the Appellant/ Claimant along with his brother Vishal for residential purposes.

13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-545 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with his brother Vishal is using the first floor of the said Jhuggi for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & 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. B-545 as per the policy guidelines issued by DDA.

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

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut -off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut- off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA as he 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. 385/44/18.1/1073 dated 07.11.2022.

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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.
>
> **<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.

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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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20. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

22. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor of Jhuggi No. B-545 as per the policy guidelines issued by DDA.

23. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1578979 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2013 (Annexure-H) and Voter List of the year 2019 (Annexure-I).

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24. It is pointed out that the Voter ID Card No. ARE 1578979 (Annexure-A) has been issued on 04.04.2018, much after the cut off date of 01.01.2015. It is pointed out that the name of the Appellant/Claimant appears at Sl. No. 1198 in the Voter List of the year 2013 (Annexure-H) & at Sl. No. 864 in the Voter List of the year 2019 (Annexure-J) and in that Voter Lists his number of the Voter ID Card is reflected to be bearing number ARE 1578979. It shows that the original Voter ID Card No. ARE 1578979 must have been issued much earlier to 04.04.2018 as it has been reflected in the Voter list of the year 2013 (Annexure-H) but the original is not placed on file to ascertain the date of its issuance. The duplicate Voter ID Card (Annexure-A) has been issued on 04.04.2018 but the original was in existence even in the year 2013 and that is why it has been reflected in the Voter List of the year 2013 (Annexure-H) and also in the Voter List of the year 2019 (Annexure-I). But the Appellant/ Claimant has not tendered the Voter List of the year's 2012, 2014 and 2015 (prior to 01-01-2015) to show that he had used the Voter ID Card No. ARE 1578979 to cast vote in these years. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in the voter list of the year's 2015 & also in the year of survey but no material is placed on file to show that his name appears in the Voter List of the year's 2012, 2014 and 2015 (prior to 01-01-2015), therefore, he Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

25. 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. B-545 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered his Ration Card (Annexure-F), which has been issued in favour of his mother, Sukhrani, and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. 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 Jhuggi No. B-545. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

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26. The Appellant/Claimant has tendered his Driving Licence (Annexure-D), Passbook of HDFC Bank (Annexure-E) and Electricity Bill (Annexure-G).

27. It is pointed out that the Driving Licence (Annexure-D) of the Appellant/Claimant has been issued on 27.11.2010. The Passbook of HDFC Bank (Annexure-E) shows that the Appellant/Claimant had opened the account on 09.06.2017, much after the cutoff date of 01.01.2015. The Electricity Bill (Annexure-G) shows that the electricity connection has been taken by his father, Hare Krishan, on 10.05.2008 on the ground floor of the Jhuggi No. B-545 thereby showing that the Appellant/Claimant was not having a separate electricity connection on the first floor of the Jhuggi No. B-545 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these document do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not 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.

28. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in the voter list of the years 2012, 2014 and 2015 (prior to 01-01-2015). The documents, Annexure-A to Annexure-I, 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 separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

29. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-545 regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the years 2012, 2014 and 2015 (prior to 01-01-2015). Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

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30. 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. 385/44/18.1/1073 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

31. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 92 of 2023

Date of Institution: 21.11.2022

Date of Order: 31.08.2023

Present: Appellant/ Claimant Shankar Sarkar S/o Anil Sarkar

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-18, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-18 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/7/30.G/1615 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 92 of 2022 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 11.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, 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-18 was found to exist but he had failed to submit required documents, i.e. Voter Card etc., 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 07.11.2022 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 a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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 bearing No. B-18 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Shankar, has been recorded before us on 11.08.2023 wherein he has stated that his parents, Anil & Sarthi, are having two sons; Sobti & Shankar. Anil had expired about twenty years ago. Sobti is married with

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Taposi and having two children, Saurabh & Vaisakhi. Sobti along with his family as well as his mother Sarthi is living in Kolkata, West Bengal. Shankar (Appellant/Claimant) is unmarried.

9. The Appellant/Claimant has stated that he is unmarried and living alone in the double storey Jhuggi No. B-18, Bhoomiheen Camp, Kalkaji and regarding that he has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 92 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make allotment in his favour.

10. DDA has furnished the survey record along with five video clips pertaining to the Jhuggi No. B-18. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 11.08.2023 wherein he has stated that all the five video clips pertain to the Jhuggi No. B-18 in which the Appellant/Claimant is seen and further, his room & kitchen are seen but the survey is being conducted by his friend, Gopal, on his behalf. The Appellant/Claimant has stated that he is not sure about the name of the father of his friend Gopal but he has stated that perhaps his name is Satish and further, Gopal is living in Jhuggi No. A-299, Bhoomiheen Camp, Kalkaji, and regarding that DDA has made allotment in favour of Gopal.

11. The Appellant/Claimant has stated that at the time of the survey, he had gone to his native village in Kolkata, West Bengal and accordingly, in his absence, the survey was conducted by his friend Gopal. Here, it is pertinent to point out that DDA had conducted extensive survey in Bhoomiheen Camp, Kalkaji and the whole exercise had taken about two months. Accordingly, the absence of the Appellant/Claimant for such a long period of time creates doubt and suspicion and it shows that he was not living in the Jhuggi No. B-18, Bhoomiheen Camp, Kalkaji but he has filed a wrong and false claim to grab allotment from DDA in collusion with said Gopal. The Appellant/Claimant had somehow managed to get the survey conducted through his friend Gopal even though he could not give the name of his father. This shows that the said Gopal may be instrumental in helping the survey conducted on behalf of the Appellant/Claimant so that the Appellant/Claimant can get allotment by hook or

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crook. Accordingly, the material placed on file shows that the Appellant/Claimant was not living separately & independently in Jhuggi No. B-18 on the cutoff date of 01.01.2012, therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

12. Now we shall first appraise the material placed on file to determine the eligibility on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the Jhuggi No. B-18 as per the policy guidelines issued by DDA.

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

14. 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 all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name 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. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/7/30.G/1615 dated 07.11.2022.

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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 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.

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

16. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17. As already pointed out above, condition contained in Part–B Para 10 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."

18. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper

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floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

19. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must 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.

20. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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. A-296 as per the policy guidelines issued by DDA.

21. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-A/1), Aadhar Card (Annexure-B), Voter List of the year 2008 (Annexure-H), Voter List of the year 2012 (Annexure-I) and Voter List of the year 2013 (Annexure-J).

22. It is pointed out that the Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-A/1). The First Voter ID Card (Annexure-A) is bearing No. ARE 1142470 and it has been issued on 26.08.2010, much prior to the cutoff date of 01.01.2015. The second Voter ID Card (Annexure-A/1) is bearing No. ARE 2619161 and it has been issued on 17.01.2023, much after the cutoff date of 01.01.2015. The Appellant/Claimant has failed to explain the reasons for getting two Voter ID Cards issued in his favour and this creates doubt and suspicion.

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23. It is pointed out that the name of the Appellant/Claimant appears at Sl. No. 86 in the Voter List of the year 2008 (Annexure-H), at Sl. No. 62 in the Voter List of the year 2012 (Annexure-I) and at Sl. No. 62 in the Voter List of the year 2013 (Annexure-J. In all the Voter Lists (Annexure-H to Annexure- J), the number of his Voter ID Cards is mentioned to be ARE 1142470. This shows that the Appellant/Claimant has used the Voter ID Cars No. ARE 1142470 (Annexure-A) to cast his vote in the years 2008, 2012 & 2013 and that is why his name is reflected in the Voters Lists of the year 2008, 2012 & 2013 (Annexure-H to Annexure-J). However, the Appellant/Claimant has not tendered the Voter Lists of the years 2014, 2015 & 2019 to show that he had used the Voter ID Card No. ARE 1142470 to cast his vote in these years. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appear in voter list of the year's 2008, 2012 & 2013 but his name does not appear in the voter list of the year's 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 does not fulfill the eligibility criteria as per the guidelines issued by DDA.

24. The Appellant/Claimant has tendered the Electricity Bill (Annexure-C), Passbook of United Bank of India (Annexure-D), his Passport (Annexure-E) and Ration Cards (Annexure-F & Annexure-G).

25. It is pointed out that the Electricity Bill (Annexure-C) shows that the connection has been taken by the Appellant/Claimant on 11.07.2008. The Passbook of United Bank of India (Annexure-D) shows that the account has been opened by the Appellant/Claimant on 15.03.2005. The Passport (Annexure-E) of the Appellant/Claimant shows that it has been issued on 07.01.2010. The Appellant/Claimant has tendered two Ration Cards (Annexure-F & Annexure-G). The first Ration Card (Annexure-F) has been issued on 02.11.2004 in favour of the Appellant/Claimant. The second Ration Card (Annexure-G) has been issued in favour of the Appellant/Claimant on 12.09.2019, 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 living separately & independently in Jhuggi No. B-18 and his name also does not appear in the voter list of the year's 2014 and 2015 (prior to

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01-01-2015) & also in the year of survey. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

26. The material placed on file shows that the Appellant/ Claimant was not living separately & independently in Jhuggi No. B-18 and his name also does not appear in the voter list of the year's 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents, Annexure-A to Annexure-K, 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. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not living separately & independently in Jhuggi No. B-18 and his name also does not appear in the voter list of the year's 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, which make separate Ration Card a mandatory document for the upper floor.

27. 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. 385/7/30.G/1615 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

28. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 247 of 2023

Date of Institution: 24.11.2022

Date of Order: 31.08.2023

Present: Appellant/ Claimant Jogender Mandal S/o Dijabar Mandal

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 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-263, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-263 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/18/22.1/758 on 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 247 of 2023 has been filed by the present Appellant/Claimant.

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3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 13.07.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-263 was found to exist on the upper floor but he had failed to submit required documents, i.e., a separate Ration Card 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. The Appellant/Claimant has argued that he is having a double storey Jhuggi bearing No. C-263 on the cutoff date of 01.01.2015 and the room on ground floor is used as bathroom whereas there is a room & a kitchen on the first floor, which is used for residential purposes. The Appellant/Claimant has sought allotment against the said double storey Jhuggi No. C-263 but in the survey record it is wrongly mentioned that he was having Jhuggi on the upper floor. Since the Appellant/Claimant has sought allotment against the said double storey Jhuggi No. C-263 accordingly his eligibility has to be determined on the parameters for ground floor and not on the parameters for upper floor. 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 as he fulfill the eligibility criteria.

8. 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 a double storey Jhuggi bearing No. C-263 on the cutoff date of 01.01.2015 and it's room on ground floor is used as bathroom whereas there is a room & a kitchen on the first floor, which is used for residential purposes and whether the Appellant/Claimant has sought allotment against the said double storey Jhuggi No. C-263 but in the survey record it is wrongly mentioned

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that he was having Jhuggi on the upper floor and accordingly his eligibility has to be determined on the parameters for ground floor or for the parameters for upper floor and further also whether he was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the said double storey Jhuggi bearing No. C-263 as per the policy guidelines issued by DDA.

9. The statement of the Appellant/Claimant, Jogender Mandal, has been recorded before us on 13.07.2023, wherein he has stated that he was married with Suryabala and having three sons, Dalip, Ravi & Mohan and one daughter, Gudiya. Suryabala had expired about 6 years ago. Her death certificate is Annexure-G, thereby showing that she had died on 29.05.2014. Gudiya is married and she is living in her matrimonial home in Rajasthan. Mohan is married with Gita and having two sons, Ajay & Abhishek. Mohan along with his wife Geeta and both the children Abhished & Ajay is living in Ghittorni, Delhi. Ravi is married with Meera and having one daughter, Ishika. Dalip is unmarried.

10. The Appellant/Claimant has stated that his son, Ravi along with his wife Meera & daughter, Ishika, is living separately in Jhuggi No. C-104 in Bhoomiheen Camp, Kalkaji, Delhi and regarding that DDA has made allotment in favour of his wife Meera. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he is having a double storey Jhuggi No. C-263 and it comprises of one room on the ground floor and a room & kitchen on the first floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

12. The Appellant/Claimant has stated that he along with his wife, Suryabala, was living on the ground floor of Jhuggi No. C-263 whereas his unmarried son, Dalip, was living on the first floor of the Jhuggi No. C-263. But when his wife Suryabala suddenly fell sick and she was unable to go to the public utility he was forced to convert the room on the ground floor into toilet/bathroom and the entire family had shifted to live on the first floor. Further, Suryabala had expired about six years ago. Now the Appellant/Claimant along with his son unmarried Dalip is living on the first floor whereas the ground floor has been still used as toilet/bathroom.

13. The Appellant/Claimant has sought allotment from DDA against the said double storey Jhuggi No. C-263 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 247 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered

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document, Annexure-A to Annexure-P, in support of his claim and prayed that DDA be directed to make allotment in his favour.

14. DDA has furnished the survey record along with one video clip pertaining to Jhuggi No. C-263. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 13.07.2023 wherein the Appellant/Claimant has stated that the video clip pertains to the first floor of Jhuggi No. C-263 in which the Appellant/Claimant is seen and further, his room & kitchen are also seen. The Appellant/Claimant has stated that the survey team had refused to make the video of the bathroom on the ground floor.

15. The Appellant/Claimant has tendered a pen drive (Annexure-P) containing the video clips of the Jhuggi No. C-263 and the video clips have been saved in the computer along with the video prepared by the survey team. The pen drive was played before the Appellant/Claimant when his statement was recorded on 13.07.2023 wherein he has stated that Jhuggi No. C-263 is clearly seen to a double storey Jhuggi and having a toilet/bathroom on the ground floor and room & kitchen on the first floor and a pucca staircase going from the ground floor to the first floor is also seen.

16. It is pointed out that the survey team has prepared the survey report annexed with this file thereby showing that the last survey was conducted on 13.08.2019 of the Jhuggi of the Appellant/Claimant, Jogender Mandal, who was found to be a widower, but the Family Member Details is left blank and further it has made a remark **"Three story jhuggi first floor is use and other family steay ground floor only single person other family members not ablebile"** *(spelling & formation of sentence ignored by us)* and the photographs taken by the survey team are also available on file and it corroborates that the Jhuggi No. C-263 was a single dwelling unit and the Appellant/Claimant, who is widower, was found to living along with his family on both the floors.

17. Here it pertinent to mention that in Para No. 1 of the proceedings conducted by EDC it is specifically pointed out that in the survey records of DDA it is mentioned that the upper floor Jhuggi of the Appellant/Claimant was found to exist. But there seems to be some clerical/typographical mistake because in the survey records placed before us along with the photographs prepared by the survey team it is mentioned that "double story Jhuggi No. C-263" was found to exist on spot and both the floors were also found to be used for residential purposes. Thus the statement of the Appellant/Claimant as well as the video clips furnished by DDA as well as the survey records placed before us along with the photographs prepared by the survey team and the Pen-drive (Annexure-P) shows that the Jhuggi No. C-263 of the Appellant/Claimant regarding which survey was conducted by DDA's Survey Team is a double storey Jhuggi and pucca staircase is constructed for going to the upper floor. The ground floor of the Jhuggi No. C-263 is

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used as bathroom whereas the first floor is used for residential purposes, therefore, Jhuggi No. C-263 constitutes single dwelling unit and the Appellant/Claimant Jogender Mandal along with his unmarried son, Dalip, has been using the said Jhuggi for residential purposes

18. There is nothing to disbelieve the statement of the Appellant/Claimant that his Jhuggi No. C-263 is a double storey structure especially when in the video clip/Pen-drive & photographs the ground floor is clearly seen to be used as bathroom and the first floor is having a room & a kitchen and the same is used for residential purposes and it constitutes one dwelling unit and the same is duly recorded in the survey records furnished by DDA in which the Jhuggi was found to exist. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the Jhuggi of the Appellant/Claimant is a double storey structure and it was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and it constitutes one dwelling unit.

19. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-263 in Bhoomiheen Camp is a single dwelling unit and the ground floor is used as bathroom and the first floor having a room & a kitchen is used for residential purposes by the Appellant/ Claimant & his family and accordingly it constitutes single dwelling unit and it was in existence much prior to the cutoff date of 01.01.2015 and further, the Appellant/ Claimant & his family has been using it for residential purposes.

20. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. As per our discussion above, the Jhuggi No. C-263 is a found to be double storey Jhuggi but constituting a single dwelling unit and accordingly the parameters for the ground floor are applicable.

21. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters for the ground floor to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the said Jhuggi bearing No. C-263 as per the policy guidelines issued by DDA.

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

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

> **"Part-B**
> **<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.
>
> **<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."

24. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and 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.

25. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against Jhuggi bearing No. C-263 as per the policy guidelines issued by DDA.

26. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1181825 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2012 (Annexure-J), Voter List of the year 2013 (Annexure-K), Voter List of the year 2014 (Annexure-L), Voter List of the year 2015 (Annexure-M), Voter List of the year 2018 (Annexure-N) and Voter List of the year 2019 (Annexure-O).

27. It is pointed out that the Voter ID Card No. ARE 1181825 (Annexure-A) of the Appellant/Claimant has been issued on 27.10.2008, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 111 in the Voter List of the year 2012 (Annexure-J), at Sl. No. 111 in the Voter List of the year 2013 (Annexure-K), at Sl. No. 119 in the Voter List of the year 2014 (Annexure-L), at Sl. No. 138 in the Voter List of the year 2015 (Annexure-M), at Sl. No. 156 in the Voter List of the year 2018 (Annexure-N) and at Sl. No.155 in the Voter List of the year 2019 (Annexure-O).

28. It is also pointed out that in all the Voter Lists of the year 2012, 2013, 2014, 2015, 2018 & 2019 (Annexure-J to Annexure-O), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be ARE 1181825 and it shows that the Appellant/Claimant has been using the said Voter ID Card bearing number ARE 1181825 to cast his vote continuously from 2012 to 2019. Further, in all the documents,

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Annexure- A to Annexure C and Annexure- J to Annexure- O, the address of the Appellant/Claimant is mentioned to be Jhuggi No. C-263 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015), 2018 & also in the year of survey. Therefore, we have no hesitation in holding that the Appellant/ Claimant fulfill the eligibility criteria as per the guidelines issued by DDA.

29. The Appellant/Claimant has also tendered his Passport (Annexure-D), Electricity Bill (Annexure-E) and Cast Certificate (Annexure-F).

30. It is pointed out that the Passport (Annexure-D) of the Appellant/Claimant has been issued on 02.02.2009, much prior to the cutoff date 01.01.2015. The Electricity Bill (Annexure-E) shows that the electricity connection has been taken by the Appellant/Claimant on 11.06.2008, much prior to the cutoff date 01.01.2015. The Cast Certificate (Annexure-F) of the Appellant/Claimant has been issued on 07.04.1988, much prior to the cutoff date 01.01.2015. This further corroborates that the Appellant/Claimant has been continuously living in Jhuggi No. C-263 regarding which the Appellant/Claimant is claiming allotment from DDA since long and more specifically on the cutoff date of 01.01.2015. Therefore, we have no hesitation in holding that the Appellant/ Claimant fulfill the eligibility criteria as per the guidelines issued by DDA.

31. Here it pertinent to mention that in Paras No. 1 of the proceedings conducted by EDC it is pointed out that in the survey records of DDA it is mentioned that the upper floor Jhuggi of the Appellant/Claimant was found to exist but the statement of the Appellant/Claimant as well as the video clips furnished by DDA shows that the Jhuggi of the Appellant/Claimant regarding which survey was conducted by DDA's Survey Team is a double storey Jhuggi No. C-263 and it comprises of one room on the ground floor, which has been used as bathroom, and one room & a kitchen on the first floor, which is used for residential purposes and accordingly, Jhuggi No. C-263 is a found by us to be single dwelling unit.

But even if for the sake of arguments, it is taken to be gospel truth that the survey team had correctly found the Jhuggi of the Appellant/Claimant was found to be in existence on the upper floor at the time of survey then also it is of no consequence because the Appellant/Claimant fulfills the criteria for the upper floor also as per our discussion below.

32. The bare perusal of the condition No. 10 of the Policy enumerated in Para No. 23 above, shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card, on the cut off 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.

33. We have already pointed out that the material placed on file has proved that the Appellant/Claimant is having required document, Voter ID Card, and his name also appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015), 2018 & also in the year of survey. Now it has to be seen whether the Appellant/Claimant was also having a separate Ration Card on the cutoff date of 01.01.2015 issued on the Jhuggi No. C-263 regarding which he has been claiming allotment from DDA.

34. The Appellant/Claimant has stated that he was having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. C-263 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered two Ration Cards (Annexure-H & Annexure-I). The first Ration Card No. 077002138365 (Annexure-H) has been issued in favour of the Appellant/Claimant on 15.03.2012 and the name of his wife Suryobala and son Dalip have also been mentioned therein. The second Ration Card No. 077002138365 (Annexure-I) has been issued on 29.06.2016 in favour of the Appellant/Claimant and the name of his son Dalip has also been mentioned therein. It is pointed out that both the Ration Cards (Annexure-H & Annexure-I) are bearing the same number i.e., 077002138365 and both have been issued on the address of Jhuggi No. C-263 regarding which the Appellant/Claimant is claiming allotment from DDA. This shows that the second Ration Card No. 077002138365 (Annexure-I) dated 29.06.2016 has been issued in continuation of the first Ration Card No. 077002138365 (Annexure-H) dated 15.03.2012.

35. This shows that the present Appellant/ Claimant was also having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of Jhuggi No. C-263 regarding which he has been claiming allotment from DDA. In the light of our detailed discussion above, we have no hesitation in holding that the Appellant/ Claimant was having all the requisite documents, including Voter ID card & a separate Ration Card, on the cutoff date of 01.01.2015 and further his name also appear in the voter list of the year's 2008, 2012, 2013, 2014 and 2015 (prior to 01-01-2015), 2018 & also in the year of survey. Therefore, he fulfills the eligibility criteria as per the guidelines issued by DDA.

36. The material placed on file shows that the Appellant/ Claimant was having a valid Voter ID Card & a separate Ration Card, on the cut off date of 01.01.2015, which have been issued on the address of the Jhuggi No. C-263 regarding which the Appellant/Claimant is claiming allotment from DDA and further his name also appears in in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015), 2018 & also in the year of survey. In addition to that the material placed on file has also proved that the Appellant/Claimant has furnished documents, Annexure-A to Annexure-O, which have

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been issued on the address of Jhuggi No. C-263 regarding which the Appellant/Claimant has been claiming allotment from DDA thereby showing that he along with his family members has been living continuously and more specifically on the cutoff date of 01.01.2015 in the double storey Jhuggi No. C-263.

37. In the light of our detailed discussion above, we have no hesitation in holding that the Appellant/ Claimant was having all the requisite documents, including Voter ID card & a separate Ration Card, on the cutoff date of 01.01.2015, which have been issued on the address of the Jhuggi No. C-263 regarding which the Appellant/Claimant is claiming allotment from DDA and further his name also appears in in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015), 2018 & also in the year of survey. Thus we have no hesitation in holding that the Appellant/ Claimant fulfills the eligibility criteria on all the parameters as per the guidelines issued by DDA.

38. In view of our findings above, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/ Claimant fulfills the eligibility criteria as per the guidelines issued by DDA but the Eligibility Determination Committee has wrongly and illegally rejected his claim. Hence the present appeal No. 247 of 2023 stands allowed, hereby, setting aside the impugned order bearing No. 385/18/22.1/758 on 07.11.2022. DDA is hereby directed to make allotment in favour of Appellant/ Claimant, Jogender Mandal S/o Dijabar Mandal, in respect of double storey Jhuggi No. C-263, Bhoomiheen Camp, Kalkaji.

39. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 346 of 2023

Date of Institution: 28.11.2022

Date of Order: 31.08.2023

Present: Appellant/Claimant Rinta Saroj W/o Dilip Kumar D/o Suraj Pal

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-166, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-166 was found to exist on the upper floor 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

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Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/66/58.1.1/1484 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 346 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 18.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-166 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi bearing No. A-166 as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant, Rinta Saroj, has been recorded before us on 18.08.2023 wherein she has stated that her in-laws, Ram Naresh & Vipta, are having one son Dilip and two daughters, Raj Kumari & Raj Dulari. All the children are married. Raj Kumari is married with Lal Chand and Raj Dulari is married with Amrit Lal and both the sisters are living in their respective matrimonial homes in Pratapgarh, Uttar Pradesh. Dilip is married with Rinta Saroj (Appellant/Claimant) and having two children, Alok and Karishma.

9. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. A-166 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that her in-laws, Ram Naresh & Vipta, are living on the ground floor of the Jhuggi No. A-166 and regarding that DDA has made allotment in favour of her father-in-law Ram, Naresh. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that she along with her husband Dilip and both the children, Alok & Karishma, is living on the first floor of the Jhuggi No. A-166. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-166 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 346 of 2023 before the Appellate Authority for redressal. 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.

12. DDA has furnished the survey record along with seven video clips pertaining to Jhuggi No. A-166. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 18.08.2023 wherein the Appellant/Claimant has stated that the three video clips pertain to the ground floor of the Jhuggi No. A-166 in which her father-in-law, Ram Naresh, is seen and further, his room & kitchen are also seen. The next four video clips pertain to the first floor of the Jhuggi No. A-166 in which the Appellant/Claimant is seen and her room & kitchen are also seen and further, a pucca staircase constructed outside in the gali and used for going to the upper floor is also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that double storey Jhuggi No. A-166 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and her in-laws,

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Ram Naresh & Vipta, are living on the ground floor of the Jhuggi No. A-166 whereas the Appellant/Claimant along with her family is living separately & independently on the first floor of the said Jhuggi No. A-166.

13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-166 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant is using the first floor of Jhuggi No. A-166 for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including 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 Jhuggi No. A-166 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-J, in support of her claim and prayed that DDA be directed to make allotment in her favour.

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name 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. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/66/58.1.1/1484 dated 07.11.2022.

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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.
>
> **<u>As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:</u>**
>
> - Passport.
> - Ration Card with photograph.
> - Electricity Bill
> - Driving License.
> - Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
> - Passbook issued by public sector Bank/Post Office with photograph.
> - SC/ST/OBC certificates issued by Competent Authority with photograph.

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is

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

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi No. A-166 as per the policy guidelines issued by DDA.

23. The Appellant/Claimant has tendered her Voter ID Card No. ARE 2555290 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C).

24. It is pointed out that the Voter ID Card No. ARE 2555290 (Annexure-A) has been issued on 23.09.2021, much after the cutoff date of 01.01.2015 and accordingly the question of her name appearing in the Voter Lists from the years 2012 to 2019 does not arise. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 and her name also does not appear in voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of the survey. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

25. The Appellant/Claimant has admitted that she 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. A-

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166 regarding which she 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 the first floor of the Jhuggi No. A-166. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

26. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1129386 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of her husband Dilip, the Electricity Bill (Annexure-G), the Passbook of SBI (Annexure-H), the Voter List of the year 2015 (Annexure-I) and Voter List of the year 2019 (Annexure-J).

27. It is pointed out that the Voter ID Card No. ARE 1129386 (Annexure-D) of her husband Dilip has been issued on 27.10.2008 and further his name also appears at Sl. No. 64 in the Voter List of the year 2015 (Annexure-I) and at Sl. No. 90 in the Voter List of the year 2019 (Annexure-J). The Electricity Bill (Annexure-G) shows that her father-in-law, Ram Naresh, had taken the electricity connection on 08.07.2008 on the ground floor of the Jhuggi No. A-166, thereby, showing that the Appellant/Claimant was not having separate electricity connection on the first floor of the Jhuggi No. A-166 regarding which she is claiming allotment from DDA. The Passbook of SBI (Annexure-H) shows that her father-in-law, Ram Naresh, had opened the account on 17.02.2015, 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 separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

28. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card & separate Ration Card on the cutoff date of 01.01.2015 and further and her name also does not appear in voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of the survey. The documents, Annexure-A to Annexure-J, 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

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per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she is claiming allotment against the upper floor.

29. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card & separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-166 regarding which she is claiming allotment from DDA and further and her name also does not appear in voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of the survey. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

30. 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. 385/66/58.1.1/1484 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

31/8/2023

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

31/8/2023

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 414 of 2023

Date of Institution: 29.11.2022

Date of Order: 31.08.2023

Present: Appellant/ Claimant Hosiyar Singh S/o Bhanwar Singh

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-250, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-250 was found to exist on the upper floor 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

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Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/61/103.1/1319 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 414 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 22.08.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-250 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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

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entitled to claim allotment against the second floor of Jhuggi bearing No. A-250 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Hosiyar Singh, has been recorded before us on 22.08.2023 wherein he has stated that his parents, Bhanwar Singh & Laxmi, are having three sons, Shyambir, Devender & Hosiyar and two daughters, Neelam & Sanju. All the children except Hosiyar are married. Neelam is married with Amit and she is living in her matrimonial home in Paharganj, Delhi. Sanju is married with Duli Chand and she is living in her matrimonial home in Kalyanpuri, Delhi. Shyambir is married with Priya and having two daughters, Ishika & Shruti. Devender is married with Poonam and having two children, Ayush & Bhoomi. Hosiyar (Appellant/Claimant) is unmarried.

9. The Appellant/Claimant has stated that his family is having two Jhuggis. One is bearing Jhuggi No. B-366 & another is bearing Jhuggi No. A-250. The Appellant/Claimant has stated that his brother Shyambir along with his wife Priya and children is living in Jhuggi No. B-366 and regarding that Shyambir has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 413 of 2023 before the Appellate Authority but his Appeal has also been rejected by the Appellate Authority on 23.06.2023. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that the second Jhuggi is bearing No. A-250 and it is a triple storey structure and it comprise of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

11. The Appellant/Claimant has stated that his parents, Bhanwar Singh & Laxmi, are living on the ground floor of the Jhuggi No. A-250 and regarding that, DDA has made allotment in favour of his father Bhanwar Singh. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that his brother Davender along with his wife Poonam and both the children Ayush & Bhoomi is living on the first floor of the Jhuggi No. A-250 and regarding that he has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the

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Appeal No. 495 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

13. The Appellant/Claimant has stated that he is unmarried and living on the second floor of the Jhuggi No. A-250. The Appellant/Claimant has sought allotment from DDA against the second floor of the Jhuggi No. A-250 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 414 of 2023 before the Appellate Authority for redressal. 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 favour of his claim.

14. It is pointed out that both the appeals bearing Appeal No. 414 of 2023 and 495 of 2023 shall we decided separately on their individual merits.

15. DDA has furnished the survey record along with three video clips pertaining to the Jhuggi No. A-250. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 22.08.2023 wherein he has stated two video clips pertain to the ground floor of the Jhuggi No. A-250 in which his parents, Bhanwar Singh & Laxmi, are seen and further, their room & kitchen are also seen and a pucca staircase going from the ground floor to the first floor is also seen. The third video clip pertains to the first floor of the Jhuggi No. A-250 in which he brother Devender and his wife Poonam is seen and further, their room & kitchen are also seen. There is no video clip of the second floor of the Jhuggi No. A-250. However there is nothing to disbelieve the statement of the Appellant/Claimant that Jhuggi No. A-250 is a triple storey Jhuggi but the material placed on file shows that the Appellant/Claimant is unmarried and he was not living separately & independently on the second floor of Jhuggi No. A-250 but was living jointly with his parents on the ground floor and this explains as to why no video of second floor was got prepared by the Appellant/Claimant. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. A-250 being used for residential purposes, was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and his parents, Bhanwar Singh & Laxmi, were living on the ground floor whereas the family of his brother Davender was living on the first floor but there is no material to show that the

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Appellant/Claimant was not living separately & independently on the second floor of Jhuggi No. A-250.

16. Accordingly, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he is found to be not living separately & independently on the second floor of Jhuggi No. A-250 regarding which he has been claiming allotment from DDA.

8. Now we shall first appraise the material placed on file to determine the eligibility on other parameters 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 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 second floor of Jhuggi No. A-250 as per the policy guidelines issued by DDA.

9. 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

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. 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 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

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argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor and further 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. 385/61/103.1/1319 dated 07.11.2022.

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 is 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

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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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

19. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12

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documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

20. It is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part–B Para 10 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. 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.

22. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card 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.

23. 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 with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

24. 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) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

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25. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015

GIST OF THE POLICY

26. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

27. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further 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.

28. 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 he 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.

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29. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

30. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1517960 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2015 (Annexure-F) & Voter List of the year 2019 (Annexure-G).

31. It is pointed out that the Voter ID Card No. ARE 1517960 (Annexure-A) of the Appellant/Claimant has been issued on 15.01.2023, much after the cut off date of 01.01.2015. It is pointed out that the name of the Appellant/Claimant appears at Sl. No. 23 in the Voter List of the year 2015 (Annexure-F) & at Sl. No. 32 in the Voter List of the year 2019 (Annexure-G) and it is pointed out that in both the Voter Lists, the number of his Voter ID Card has been mentioned to be ARE 1517960. It shows that the original Voter ID Card No. ARE 1517960 must have been issued much earlier to 15.01.2023 as it has been reflected in the Voter list of the year 2015 (Annexure-F) but the original is not placed on file to ascertain the date of its issuance. The duplicate Voter ID Card (Annexure-A) has been issued on 15.01.2023 but the original was in existence even in the year 2015 and that is why it has been reflected in the Voter List of the year 2015 (Annexure-F) and also in the Voter List of the year 2019 (Annexure-G) but it cannot be ascertained that it was issued before or after the cutoff date of 01.01.2015. It must have been issued after the cutoff date of 01.01.2015 and that is why the original Voter ID Card is not placed on file. Furthermore, the Appellant/Claimant has also not tendered Voter Lists 2012, 2013, 2014 and 2015 (prior to 01-01-2015) to show that he had ever used the above mentioned Voter ID Card to cast vote in any of these years. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut-off date of 01.01.2015 and there is no doubt that his name appears in the Voter Lists of 2015 & 2019 but no material is placed on file to show that his name also appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). Therefore, we have no

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hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

32. 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 the second floor of the Jhuggi No. A-250 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the Ration Card (Annexure-E), which shows that it has been issued in favour of his mother Laxmi and the name of the Appellant/Claimant is mentioned by the date of issuance is not mentioned. 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 second floor of the Jhuggi No. A-250 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

33. The Appellant/Claimant has tendered his Electricity Bill (Annexure-D), which shows that the electricity connection has been taken by his father Bhanwar Singh on 12.08.2017 thereby showing that the Appellant/Claimant was not having a separate electricity connection on the second floor of the Jhuggi No. A-250 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned document is of no help to the Appellant/Claimant because these document does 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 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.

34. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card & separate Ration Card on the cut off date of 01.01.2015 issued on the address of second floor of the Jhuggi No. A-250 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) and also further he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para

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10 of the policy. The documents, Annexure-A to Annexure-G, 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.

35. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. A-250 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and also further he was not having the requisite mandatory document, i.e., a Voter ID Card separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. A-250 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). Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

36. 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. 385/61/103.1/1319 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

37. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 468 of 2023

Date of Institution: 30.11.2022

Date of Order: 31.08.2023

Present: Appellant/ Claimant Babu Lal S/o Ishwar Lal

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-314, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-314 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/6/62.1/1217 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 468 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 21.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-314 was found to exist but he had failed to submit required documents, i.e. separate Ration Card 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of Jhuggi bearing No. B-314 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Babu Lal, has been recorded before us on 21.08.2023 wherein he has stated that his parents, Ishwar & Chandra, are having two sons; Babu Lal & Pawan Kumar, and one daughter Parwati. All the children are

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married. Parwati is married with Hari Ram and she is living in her matrimonial home in Sikar, Rajasthan. Pawan Kumar is married with Radhika and having two children; Diwesh & Bhumi. Babu Lal (Appellant/Claimant) is married with Manju and having one son Arvind.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi bearing No. B-314 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that his parents, Ishwar & Chandra, along with the family of their son Pawan are living on the ground floor of the Jhuggi No. B-314 and regarding that, DDA has made allotment in favour of his mother Chandra. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Manju and son Arvind is living on the first floor of the Jhuggi No. B-314. The Appellant/Claimant has claimed allotment from DDA against the first floor of the Jhuggi No. B-314 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 468 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered his documents, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished the survey records along with eight video clips of Jhuggi No. B-314. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 21.08.2023 wherein the Appellant/Claimant has stated that five video clips pertain to the ground floor of the Jhuggi No. B-314 in which his mother Chandra is seen and further, her room & kitchen are also seen. The next three video clips pertain to the first floor of the Jhuggi No. B-314 in which the Appellant/Claimant is seen and further, his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. B-314 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by his parents, Ishwar & Chandra, whereas the first floor is used by the Appellant/ Claimant along with his family for residential purposes.

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13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-314 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant is using the first floor of Jhuggi No. B-314 for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor of Jhuggi No. B-314 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 his claim and prayed that DDA be directed to make allotment in his favour.

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having all the requisite documents, including, Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name 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. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/6/62.1/1217 dated 07.11.2022.

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:

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"Part-B

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

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

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

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- 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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

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GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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. B-314 as per the policy guidelines issued by DDA.

23. The Appellant/Claimant has tendered his Voter ID Card No. CXY 1071612 (Annexure-A), Aadhar Card (Annexure-B), Voter List of the year 2014 (Annexure-J) and Voter List of the year 2019 (Annexure-K).

24. It is pointed out that the Voter ID Card No. CXY 1071612 (Annexure-A) of the Appellant/Claimant has been issued on 06.03.2002, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 168 in the Voter List of the year 2014 (Annexure-J) and at Sl. No. 243 in the Voter List of the year 2019 (Annexure-K). But the Appellant/Claimant has not tendered the voter list of the year's 2012, 2013 and 2015 (prior to 01-01-2015) to show that he had used the Voter ID Card No. CXY 1071612 (Annexure-A) to cast his vote in these years. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in the Voter List of the year's 2014 & also in the year of survey but there is no material on file to show that his name also appears in the voter list of the year's 2012, 2013 and 2015 (prior to 01-

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01-2015). Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA

25. 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. B- 314 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the Ration Card (Annexure-I), which has been issued in favour of his mother Chandra Devi and the name of the Appellant/Claimant is mentioned and further, this Ration Card has been issued on 12.03.2015, much after the cut off date of 01.01.2015. 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 the first floor of Jhuggi No. B-314. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

26. The Appellant/Claimant has tendered Driving Licence (Annexure-C), Electricity Bill (Annexure-D), Passbook of PNB (Annexure-E), Passport (Annexure-F) and the Voter ID Card No. ARE 1153287 (Annexure-G) & PAN Card (Annexure-H) of his wife Manju.

27. It is pointed out that the Driving Licence (Annexure-C) of the Appellant/Claimant has been issued on 10.02.2001. The Electricity Bill (Annexure-D) shows that the connection has been taken by his father, Ishwar, on 28.05.2008 on the address of the ground floor of the Jhuggi No. B-314 thereby showing that the Appellant/Claimant was not having a separate electricity connection on the first floor of the Jhuggi No. B-314 regarding which he is claiming allotment from DDA. The Passbook of PNB (Annexure-E) shows that the Appellant/Claimant had opened the account on 13.07.2010 and further, the Passport of the Appellant/Claimant has been issued on 21.01.2020. The Voter ID Card No. ARE 1153287 (Annexure-G) of his wife Manju has been issued on 27.10.2008. 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 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. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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28. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in the Voter List of the year's 2012, 2013 and 2015 (prior to 01-01-2015). The documents, Annexure-A to Annexure-K, 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 separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

29. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-314 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 and 2015 (prior to 01-01-2015). Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

30. 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. 385/6/62.1/1217 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

31. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 495 of 2023

Date of Institution: 01.12.2022

Date of Order: 31.08.2023

Present: Appellant/ Claimant Davender Singh S/o Bhanwar Singh

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-250, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-250 was found to exist on the upper floor 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

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Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/58/51.G/1138 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 495 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 22.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-250 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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

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entitled to claim allotment against the first floor of Jhuggi bearing No. A-250 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Devender has been recorded before us on 22.08.2023 wherein he has stated that his parents, Bhanwar Singh & Laxmi, are having three sons, Shyambir, Devender & Hosiyar and two daughters, Neelam & Sanju. All the children except Hosiyar are married. Neelam is married with Amit and she is living in her matrimonial home in Paharganj, Delhi. Sanju is married with Duli Chand and she is living in her matrimonial home in Kalyanpuri, Delhi. Shyambir is married with Priya and having two daughters, Ishika & Shruti. Devender (Appellant/Claimant) is married with Poonam and having two children, Ayush & Bhoomi.

9. The Appellant/Claimant has stated that his family is having two Jhuggis. One is bearing Jhuggi No. B-366 & another is bearing Jhuggi No. A-250. The Appellant/Claimant has stated that his brother Shyambir along with his wife Priya and children is living in Jhuggi No. B-366 and regarding that Shyambir has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 413 of 2023 before the Appellate Authority but his Appeal has also been rejected by the Appellate Authority on 23.06.2023. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that the second Jhuggi is bearing No. A-250 and it is a triple storey structure and it comprise of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

11. The Appellant/Claimant has stated that his parents, Bhanwar Singh & Laxmi, are living on the ground floor of the Jhuggi No. A-250 and regarding that, DDA has made allotment in favour of his father Bhanwar Singh. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that his brother Hosiyar SIngh is living on the second floor of the Jhuggi No. A-250 and regarding that he has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by

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the same, he has filed the Appeal No. 414 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

13. The Appellant/Claimant has stated that he along with his wife Poonam and both the children, Ayush & Bhoomi, is living on the first floor of the Jhuggi No. A-250. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. A-250 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 495 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make allotment in favour of his claim.

14. It is pointed out that both the appeals bearing Appeal No. 414 of 2023 and 495 of 2023 shall we decided separately on their individual merits.

15. DDA has furnished the survey record along with three video clips pertaining to the Jhuggi No. A-250. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 22.08.2023 wherein he has stated two video clips pertain to the ground floor of the Jhuggi No. A-250 in which his parents, Bhanwar Singh & Laxmi, are seen and further, their room & kitchen are also seen and a pucca staircase going from the ground floor to the first floor is also seen. The third video clip pertains to the first floor of the Jhuggi No. A-250 in which he brother Devender and his wife Poonam is seen and further, their room & kitchen are also seen. There is no video clip of the second floor of the Jhuggi No. A-250. However there is nothing to disbelieve the statement of the Appellant/Claimant that Jhuggi No. A-250 is a triple storey Jhuggi but the material placed on file shows that the Appellant/Claimant is unmarried and he was not living separately & independently on the second floor of Jhuggi No. A-250 but was living jointly with his parents on the ground floor and this explains as to why no video of second floor was got prepared by the Appellant/Claimant. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. A-250 being used for residential purposes, was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and his parents, Bhanwar Singh & Laxmi, were living on the ground floor whereas the family of the

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Appellant/Claimant Davender was living on the first floor but there is no material to show that Hosiyar (Appellant/Claimant of Appeal No. 414 of 2023) was not living separately & independently on the second floor of Jhuggi No. A-250.

16. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. A-250 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with his family was using the first floor of the said Jhuggi for residential purposes.

17. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor of Jhuggi No. A-250 as per the policy guidelines issued by DDA.

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

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

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is no illegality in the impugned rejection order bearing No. 385/58/51.G/1138 dated 07.11.2022.

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 for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
> 10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
> 11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.
>
> **As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:**

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

21. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

22. As already pointed out above, condition contained in Part–B Para 10 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."

23. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

24. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

25. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor of Jhuggi No. A-250 as per the policy guidelines issued by DDA

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26. The Appellant/Claimant has tendered his Voter ID Card No. ARE 2015378 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2015 (Annexure-K) and Voter List of the year 2019 (Annexure-L).

27. It is pointed out that the Voter ID Card No. ARE 2015378 (Annexure-A) has been issued on 21.01.2015, much after the cutoff date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 920 in the Voter List of the year 2015 and at Sl. No. 114 in the Voter List of the year 2019 (Annexure-L) but the fact remains that that Appellant/Claimant Voter ID Card No. ARE 2015378 (Annexure-A) was issued much after the cut off date of 01.01.2015 and accordingly, the question of his name appearing in the Voter Lists of the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015) does not arise. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 and his name also does not appear in the Voter Lists of the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015), therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

28. 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 the first floor of the Jhuggi No. A-250 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered two Ration Cards (Annexure-I & Annexure-J). The first Ration Card (Annexure-I) has been issued in favour of his father Bhanwar Singh on 22.06.2002, in which the name of the Appellant/Claimant has been mentioned. The second Ration Card (Annexure-J) has been issued in favour of his mother Laxmi and the name of the Appellant/Claimant is mentioned therein but the date of issuance is not mentioned. 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. A-250 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

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29. The Appellant/Claimant has tendered his Driving Licence (Annexure-D), Passbook of Union Bank of India (Annexure-E), Aadhar Card (Annexure-F) of his wife Poonam, Aadhar Card (Annexure-G) of his son Ayush & Aadhar Card (Annexure-H) of his daughter Bhoomi.

30. It is pointed out that the Driving Licence (Annexure-D) of the Appellant/Claimant has been issued on 20.04.2007. The Passbook of Union Bank of India (Annexure-E) of the Appellant/Claimant shows that he had opened the account on 20.07.2021, much after the cut off date of 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these document 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 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.

31. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-250 regarding which he is claiming allotment from DDA and further the name of the Appellant/ Claimant also does not appear in the Voter Lists of the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015). The documents, Annexure-A to Annexure-L, 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 separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

32. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-250 regarding which he is claiming allotment from DDA and further the name of the Appellant/ Claimant also does not appear in the Voter Lists of the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015). Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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33. 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. 385/58/51.G/1138 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

(Ranbir Singh) 31/8/2025	(Satish Ahlawat) 31/8/2023	(Rachna Tiwary) 31/8/2023
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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 497of 2023

Date of Institution: 01.12.2022

Date of Order: 31.08.2023

Present: Appellant/Claimant Sadhna Jha W/o Ajay Kumar D/o Bindu Jha

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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. B-84, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-84 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/62/75.1/1344 dated

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07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 497 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 18.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-84 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi bearing No. B-84 as per the policy guidelines issued by DDA

8. The statement of the Appellant/Claimant, Sadhna Jha, has been recorded before us on 18.08.2023, wherein she has stated that her in-laws, Inder Narain & Hema Devi, are having two sons, Sanjay & Ajay and two daughters, Meena & Ranjana. Inder Narain had

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expired in the year 2004. All the children are married. Ranjana is married with Arun and Meena is married with Jitender and they are living in their respective matrimonial homes in Bhoomiheen Camp, Kalkaji, Delhi. Sanjay is married with Vandana and having two children, Prachi & Sidhartha. Ajay is married with Sadhna (Appellant/Claimant) and having two children Swati & Ridhi.

9. The Appellant/Claimant has stated that her family is having two adjoining Jhuggis bearing Jhuggi No. B-84 and Jhuggi No. B-84/1. Sanjay along with his wife Vandana and both the children, Prachi & Sidhartha, is living in the single storey Jhuggi No. B-84/1 and regarding that DDA has made allotment in favour of Vandana. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that the second Jhuggi No. B-84 is a double storey structure and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

11. The Appellant/Claimant has stated that her mother-in-law, Hema Devi, is living on the ground floor of the Jhuggi No. B-84 and regarding that DDA has made allotment in favour of her mother-in-law, Hema Devi. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that she along with her husband Ajay and both the children, Swati & Ridhi, is living on the first floor of the Jhuggi No. B-84. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No.B-84 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 497 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-J, in support of her claim and prayed that DDA be directed to make allotment in her favour.

13. DDA has furnished the survey record along with thirteen video clips pertaining to Jhuggi No. B-84. The 13 video clips were played before the Appellant/Claimant when her statement was recorded before us on 18.08.2023 wherein the Appellant/Claimant has stated that the five video clips pertain to the ground floor of the Jhuggi No. B-84 in which her mother-in-law, Hema Devi, is seen and further, her room & kitchen are also seen. The next eight video clips pertain to the first floor of the Jhuggi No. B-84 in which the Appellant/Claimant Sadhna is seen and further, her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips

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has duly proved that double storey Jhuggi No. B-84 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and her mother-in-law, Hema Devi, is living on the ground floor of the Jhuggi No. B-84 whereas the Appellant/Claimant along with her family is living separately & independently on the first floor of the said Jhuggi No. B-84.

14. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-84 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant is using the first floor of the said Jhuggi No. B-84 for residential purposes.

15. 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 first floor of Jhuggi No. B-84 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-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 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 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 all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further her name 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. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/62/75.1/1344 dated 07.11.2022.

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

> **"Part-B**
> **<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.
>
> **<u>As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:</u>**
>
> - Passport.
> - Ration Card with photograph.
> - Electricity Bill
> - Driving License.
> - Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
> - Passbook issued by public sector Bank/Post Office with photograph.
> - SC/ST/OBC certificates issued by Competent Authority with photograph.

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

19. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

20. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

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GIST OF THE POLICY

22. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

23. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor of Jhuggi No. A-285 as per the policy guidelines issued by DDA

24. The Appellant/Claimant has tendered her Voter ID Card No. ARE 1903375 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2015 (Annexure-I) and Voter List of the year 2019 (Annexure-J).

25. It is pointed out that the Voter ID Card No. ARE 1903375 (Annexure-A) has been issued on 10.09.2014, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 951 in the Voter List of the year 2015 (Annexure-I) and at Sl. No. 1015 in the Voter List of the year 2019 (Annexure-J). But the Appellant/ Claimant has not tendered the Voter List of the year's 2012, 2013 and 2014 to show that she had used the Voter ID Card No. ARE 1903375 to cast vote in these years. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and her name also appears in the voter list of the year 2015 and 2019 but no material is placed on file to show that her name appears in the Voter List of the year's 2012, 2013 and 2014,

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

26. The Appellant/Claimant has admitted that she was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. B-84 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered Ration Card (Annexure-H), which has been issued in favour of her mother-in-law, Hema Devi, and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. 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. B-84 regarding which she 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 guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

27. The Appellant/Claimant has tendered Voter ID Card No. ARE 1811990 (Annexure-D), Aadhar Card (Annexure-E) & Driving License (Annexure-F) of her husband Ajay and the Electricity Bill (Annexure-G).

28. It is pointed out that the Voter ID Card No. ARE 1811990 (Annexure-D) of her husband Ajay has been issued on 12.03.2019, much after the cutoff date of 0.01.2015. The Driving License (Annexure-F) of her husband Ajay has been issued on 10.01.2014. The Electricity Bill (Annexure-G) shows that the electricity connection has been taken by her mother-in-law, Hema Devi, on 19.01.2009 on the ground floor of the Jhuggi No. B-84, thereby, showing that the Appellant/Claimant was not having a separate electricity connection on the first floor of the Jhuggi No. B-84 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 this document does 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 separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor.

29. The material placed on file shows 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

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floor of the Jhuggi No. B-84 regarding which she is claiming allotment from DDA and further the name of the Appellant/ Claimant does not appear in the Voter List of the year's 2012, 2013 and 2014. The documents, Annexure-A to Annexure-J, 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.

30. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-84 regarding which she is claiming allotment from DDA and further the name of the Appellant/ Claimant does not appear in the Voter List of the year's 2012, 2013 and 2014. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

31. 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. 385/62/75.1/1344 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

32. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 521 of 2023

Date of Institution:02.12.2022

Date of Order: 31.08.2023

Present: Appellant/ Claimant Deepak Burman S/o Ajit Burman

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 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-314, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-314 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/58/73.1/1152 dated 07.11.2022

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to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 521 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 03.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-314 was found to exist on the first floor but he had failed to submit required documents, i.e., Voter ID Card & separate Ration Card 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of Jhuggi bearing No. A-314 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Deepak Burman, has been recorded before us on 03.08.2023 wherein he has stated that his parents, Ajit & Arti, are having two sons, Deepak & Kala Chand and two daughters Veena & Sikha. Arti had died in the year 2007

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and Ajit had died in the year 2011. All the children are married. Veena is married with Vimal and Sikha is married with Ram Singh and both the sisters are living in their respective matrimonial homes in Tughalakabad, Delhi. Kala Chand is married with Purnima and having two children; Deepanshu & Raunak. Deepak Burman (Appellant/Claimant) is married with Sumitra and having two sons; Rudra & Saksham.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi bearing No. A-314 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that his brother Kala Chand along with his wife Purnima & children is living on the ground floor of the Jhuggi No. A-314 and regarding that DDA has made allotment in favour of Purnima. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated further stated that he along with his wife Sumitra and both the children, Rudra & Saksham, is living on the first floor of the Jhuggi No. A-314. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-314 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 521 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-I, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished the survey record along with three video clips pertaining to Jhuggi No. C-314. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 03.08.2023 wherein the Appellant/Claimant has stated that two video clips pertain to the ground floor of Jhuggi No. A-314 in which his sister-in-law, Purnima W/o Kalachand is seen on the ground floor and her room & kitchen are also seen. In the third video the Appellant/Claimant Deepak Burman is seen and further his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. A-314 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and ground floor has been used for residential purposes by his

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parents, Ajit & Arti, whereas the first floor is used by the Appellant/ Claimant along with his family for residential purposes.

13. Accordingly, we have no hesitation in holding that the Jhuggi No. A-314 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further, the Appellant/ Claimant & his family is living on the first floor of the said Jhuggi.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of the Jhuggi No. A-314 as per the policy guidelines issued by DDA.

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

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 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 all the requisite documents, including, Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further his name 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. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/58/73.1/1152 dated 07.11.2022.

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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.
>
> **<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.

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- 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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is

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

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of Jhuggi No. A-314 as per the policy guidelines issued by DDA.

23. The Appellant/Claimant has tendered his Voter ID Card No. CXY 1513779 Annexure-A, Aadhar Card (Annexure-B) and PAN Card (Annexure-C).

24. It is pointed out that the Voter ID Card CXY1513779 (Annexure-A) has been issued on 22.11.2005, much prior to the cut off date of 01.01.2015. The Appellant/Claimant has not tendered any voter list to show that he had used the Voter ID Card CXY1513779 (Annexure-A) to cast vote in any of the elections and more specifically from the years 2012 to 2019. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut-off date of 01.01.2015 but his name does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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25. 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. A-314 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered his two joint Ration Cards (Annexure-H & Annexure-I). The old Ration Card (Annexure-H) has been issued in the name of his father, Ajit Burman, on 09.02.2009 and the name of the Appellant/Claimant is also mentioned therein. The new Ration Card (Annexure-I) has been issued in favour of his sister-in-law, Purnima W/o Kala Chand, and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. 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 the first floor of Jhuggi No. A-314. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

26. The Appellant/Claimant has tendered the Voter ID Card No. ARE 2242980 (Annexure-D), Adhar Card (Annexure-E) & Pan Card (Annexure-F) of his wife Sumitra and the Electricity Bill (Annexure-G),

27. It is pointed out that the Voter ID Card No. ARE 2242980 (Annexure-D) of his wife Sumitra has been issued on 16.03.2019, much after the cutoff date of 01.01.2015. The Electricity Bill (Annexure-G) shows that the connection has been taken by his brother Kala Chand on 11.06.2008 on the ground floor of the Jhuggi No. A-314, thereby, showing that the Appellant/Claimant was not having separate electricity connection on the first floor of Jhuggi No. A-314 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a 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.

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28. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents, Annexure-A to Annexure-I, 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 separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

29. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-314 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, which make separate Ration Card a mandatory document for the upper floor.

30. 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. 385/58/73.1/1152 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

31. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 543 of 2023

Date of Institution: 05.12.2022

Date of Order: 31.08.2023

Present: None for the Appellant/ Claimant Pradeep Paik S/o Gour Paik

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-367, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-367 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/61/1.1/1258 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 543 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-367 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as he has appeared before us only on one date, i.e., 03.02.2023. The perusal of the Zimni Orders

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shows that the Appeal was put up before us for the first time on 03.02.2023 and after conducting oral enquiry the matter was fixed for 24.02.2023 for tendering of documents by the parties in favour of their respective claim/stand. But the Appellant/ Claimant did not appear on 24.02.2023 and accordingly fresh notice for 27.03.2023 was issued to procure the appearance of the present Appellant/ Claimant. But the Appellant/ Claimant did not appear on 27.03.2023 and accordingly fresh notice for 26.04.2023 was issued to procure the appearance of the present Appellant/ Claimant. But he had failed to appear on 26.04.2023. Fresh notice was issued on 26.04.2023 to procure her presence for 01.06.2023. But the file was taken up on 08.05.2023 and the appeal was fixed for 04.08.2023 to give priority to other cases and fresh notice was issued to procure his presence for 04.08.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 04.08.2023 in spite of due service.

7. On 04.08.2023 fresh notice was issued for 07.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

8. However, still none appeared on 07.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 09.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

9. However, still none appeared on 09.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 10.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter

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of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

10. However, still none appeared on 10.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 16.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

11. However, still none appeared on 16.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 31.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

12. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 31.08.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 543 of 2023 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether she is entitled for alternate allotment as per policy guidelines issued by DDA.

13. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

14. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & Ration Card etc. as on 01.01.2015 and 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. The documents available on file 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.

15. In view of the matter the present we have no hesitation in holding that 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. 385/61/1.1/1258 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 543 of 2023 instituted on 05.12.2022 is dismissed being devoid of any merit.

16. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 569 of 2023

Date of Institution: 06.12.2022

Date of Order: 31.08.2023

Present: Appellant/Claimant Parvati Haldar W/o Sanjiban Haldar D/o Ravi Vaid

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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. B-112, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-112 was found to exist on the upper floor 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

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Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/61/49.1/1286 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 569 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 26.07.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-112 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi bearing No. B-112 as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant, Parvati Haldar, has been recorded before us on 26.07.2023 wherein she has stated that her in-laws, Sapan & Kamla, are having two sons; Sujan & Sanjiban, and one daughter, Shipra. Sapan has expired in the year 2013. All children except Sujan are unmarried. Shipra is married with Deepankar and having three children but she had expired about twelve years ago and her family is living in Madhya Pradesh. Sanjiban is married with Parvati (Appellant/Claimant) and they are having two children; Sonakshi & Shreya.

9. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. B-112, which comprise of one room on the ground floor and two rooms on the first floor and a pucca staircase has been constructed outside in the gali for going to the upper floor. One of the rooms on the first floor is used for living purposes whereas the second room is used as kitchen.

10. The Appellant/Claimant has stated that her in-laws, Sapan (until his death in the year 2013) & Kamla, along with their unmarried son Sujan, are living on the ground floor of the Jhuggi No. B-112 and regarding that DDA has made allotment in favour of her mother-in-law, Kamla. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that she along with her husband, Sanjiban, and both the daughters, Sonakshi & Shreya, is living in the first room on the first floor of the Jhuggi No. B-112 while the second room on the first floor is used as kitchen. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. B-112 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal no. 569 of 2023 before the Appellate Authority for redressal. 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.

12. DDA has furnished the survey records along with eleven video clips of Jhuggi No. B-112. The 11 video clips were played before the Appellant/Claimant when her statement was recorded before us on 26.07.2023 wherein the Appellant/Claimant has stated that five video clips pertain to the ground floor of the Jhuggi No. B-112 in which her mother-in-law, Kamla, is seen and further, her room & kitchen are also seen. The next six video clips pertain to the first floor of the Jhuggi No. B-112 in which a pucca staircase going from the ground floor to the upper floor is seen and further, the

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Appellant/Claimant Parvati is seen and further, her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that double storey Jhuggi No.B-112 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by her in-laws, Sapan & Kamla, whereas the first floor is used by the Appellant/ Claimant along with her family for residential purposes.

13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-112 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including 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 Jhuggi No. B-112 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 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 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

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01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/61/49.1/1286 dated 07.11.2022.

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.
>
> **<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.

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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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have

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

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi No. B-112 as per the policy guidelines issued by DDA.

23. The Appellant/Claimant has tendered her Voter ID Card No. ARE 1516558 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-K) and Voter List of the year 2019 (Annexure-L).

24. It is pointed out that the Voter ID Card No. ARE 1516558 (Annexure-A) has been issued on 07.01.2014, much prior to the cutoff date of 01.01.2015. Further, the name of the Appellant/Claimant appears at Sl. No. 84 in the Voter List of the year 2014 (Annexure-K) and at Sl. No. 155 in the Voter List of the year 2019 (Annexure-L). But the Appellant/ Claimant has not tendered the Voter List of the year's 2012, 2013 and 2015 (prior to 01-01-2015) to show that he had used the Voter ID Card to cast vote in these years. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and her name also appears in at least on the voter list of the year's 2014 & also in the year of survey but no material is placed on file to show that her name appears in the Voter List of the

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year's 2012, 2013 and 2015 (prior to 01-01-2015), therefore, she Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

25. The Appellant/Claimant has admitted that she 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. B-112 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered the Ration Card (Annexure-J), which has been issued in favour of her mother-in-law, Kamla Haldar, and the name of her husband Sanjiban has been mentioned but that of the present Appellant/Claimant is not mentioned and further the date of issuance is also not mentioned. 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 Jhuggi No. B-112. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

26. The Appellant/Claimant has tendered the Voter ID Card No. CXY 1487750 (Annexure-D), Aadhar Card (Annexure-E), PAN Card (Annexure-F) & Driving Licence (Annexure-G) of her husband Sanjiban and Electricity Bill (Annexure-H) & Passbook of PNB (Annexure-I).

27. It is pointed out that the Voter ID Card No. CXY 1487750 (Annexure-D) of her husband Sanjiban has been issued on 12.11.2005. The Driving Licence (Annexure-G) of Sanjiban shows that it has been issued on 19.04.2012. The Electricity Bill (Annexure-H) shows that the electricity connection has been taken by her father-in-law, Sapan, on 06.06.2008 on the address of the ground floor of the Jhuggi No. B-112 thereby showing that the Appellant/Claimant was not having a separate electricity connection on the address of the first floor of the Jhuggi No. B-112 regarding which she is claiming allotment from DDA. The Passbook of PNB (Annexure-I) shows that the account has been opened by the Appellant/Claimant on 26.09.2014. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor.

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28. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in the voter list of the years 2012, 2013 and 2015 (prior to 01-01-2015). The documents, Annexure-A to Annexure-L, 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 separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she is claiming allotment against the upper floor.

29. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-112 regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the years 2012, 2013 and 2015 (prior to 01-01-2015). Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

30. 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. 385/61/49.1/1286 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

31. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 576 of 2023

Date of Institution: 06.12.2022

Date of Order: 31.08.2023

Present: Appellant/Claimant Sangeeta Rai W/o Bittoo Rai D/o Prasant Patro

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-15, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-15 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/66/21.1.1/1464 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 576 of 2023 has been filed by the present Appellant/Claimant.

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3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 09.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-15 was found to exist on the upper floor but she had failed to submit required documents, i.e., Voter ID Card & a separate Ration Card on the cutoff date of 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 hers by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified//No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi bearing No. A-15 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Sangeeta Rai, has been recorded before us on 09.08.2023 wherein she has stated that her in-laws, Pankaj Rai & Kalpana Rai, are having two sons, Pradeep & Bittoo and one daughter Shivani. Pankaj Rai had expired on 12.01.2023. All the children are married. Shivani is married with Makhan and she is living in her matrimonial home in Noida, Uttar Pradesh. Pradeep is married with Rupa

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and having one son Prem. Bittoo is married with Sangeeta (Appellant/Claimant) & having one daughter, Kritika.

9. The Appellant/Claimant has stated that her family is having a triple storey Jhuggi bearing No. A-15 and it comprises of one room on each floor.

10. The Appellant/Claimant has stated that her in-laws, Pankaj Rai & Kalpana Rai, are living on the ground floor of the Jhuggi No. A-15 and regarding that DDA has made allotment in favour of her mother-in-law, Kalpana. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that Pradeep along with his wife Rupa & son Prem is living on the second floor of the Jhuggi No. A-15 but she does not know whether Pradeep has filed claim for seeking allotment from DDA against the second floor of the Jhuggi No. A-15.

12. The Appellant/Claimant has stated that she along with her husband Bittoo and daughter Kritika is living on the first floor of the Jhuggi No. A-15. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. A-15 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 576 of 2023 before the Appellate Authority for redressal. 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.

13. DDA has furnished the survey record along with nine video clips pertaining to the Jhuggi No. A-15. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 09.08.2023 wherein she has stated that three video clips pertain to the ground floor of the Jhuggi No. A-15 in which her mother-in-law, Kalpana Rai, is seen on the ground floor of the Jhuggi No. A-15 and further her room & kitchen are also seen. The next three video clips pertain to the first floor of the Jhuggi No. A-15 in which the Appellant/Claimanto Sangeetao is seen and her room & kitchen are also seen and further, a pucca staircase going from the ground floor to the first floor is also seen. The next three videos pertain to the second floor of the Jhuggi No. A-15 in which her brother-in-law, Pradeep, is seen and further, his room is seen but no kitchen is seen and further, a pucca staircase used for going from the first floor to the second floor is also seen. Thus the statement of the Appellant/Claimant as well

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as the survey records/video clips has duly proved that triple storey Jhuggi No. A-15 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and her in-laws, Pankaj Rai & Kalpana Rai, are living on the ground floor whereas the Appellant/Claimant along with her family is living separately & independently on the first floor of the said Jhuggi No. A-15.

14. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. A-15 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant is using the first floor of Jhuggi No. A-15 for residential purposes.

15. 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 first floor of Jhuggi No. A-15 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-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 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 all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further her name 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. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/66/21.1.1/1464 dated 07.11.2022.

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

> **"Part-B**
> **<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.
>
> **<u>As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:</u>**
>
> - Passport.
> - Ration Card with photograph.
> - Electricity Bill
> - Driving License.
> - Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
> - Passbook issued by public sector Bank/Post Office with photograph.
> - SC/ST/OBC certificates issued by Competent Authority with photograph.

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

19. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

20. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is

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

GIST OF THE POLICY

22. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of the survey.

23. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi No. A-15 as per the policy guidelines issued by DDA.

24. The Appellant/Claimant has tendered her Voter ID Card bearing No. ARE 2105310 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C).

25. It is pointed out that the Voter ID Card No. ARE 2105310 (Annexure-A) has been issued on 30.03.2016, much after the cut off date of 01.01.2015 and accordingly, the question of her name appearing in the Voter List of the years 2012 to 2019 does not arise. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 and her name also does not appear in voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of the survey. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

26. The Appellant/Claimant has admitted that she 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. A-15 regarding which he is claiming allotment from DDA. The Appellant/Claimant has

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tendered Ration Card (Annexure-H), which has been issued in favour of her father-in-law, Pankaj, on 18.07.2009 and the name of the her husband Bittoo has been mentioned but that of the Appellant/Claimant is not mentioned. 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 the Jhuggi No. A-15. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

27. The Appellant/Claimant has tendered the Voter ID Card No. ARE 2105534 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of her husband Bittoo as well as the Passbook of PNB (Annexure-G), Electricity Bill (Annexure-I) and Aadhar Card (Annexure-J) of her daughter Kritika.

28. It is pointed out that the Voter ID Card No. ARE 2105534 (Annexure-D) of her husband Bittoo has been issued on 30.03.2016, much after the cut off date of 01.01.2015. This shows that neither the Appellant/Claimant nor her husband Bittoo 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-15 regarding which the Appellant/Claimant is seeking allotment from DDA. The Passbook of PNB (Annexure-G) shows that the Appellant/Claimant has opened the account but the date of opening the account is not mentioned. The Electricity Bill (Annexure-I) shows that the connection has been taken by her father-in-law, Pankaj, on 20.05.2008 thereby showing that the Appellant/Claimant was not having an electricity connection on the first floor of the Jhuggi No. A-15 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 separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

29. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card & separate Ration Card on the cutoff date of 01.01.2015 and further and her

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name also does not appear in voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of the survey. The documents, Annexure-A to Annexure-J, 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 separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she is claiming allotment against the upper floor.

30. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card & separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-15 regarding which she is claiming allotment from DDA and further and her name also does not appear in voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of the survey. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

31. 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. 385/66/21.1.1/1464 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

32. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 612 of 2023

Date of Institution: 09.12.2022

Date of Order: 31.08.2023

Present: None for the Appellant/ Claimant Doli W/o Vipin Majhi D/o Bello Manjhi

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-211, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-211 was found to exist on the ground floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/67/044.G/1520 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 612 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-211 was found to exist on the ground floor but she had failed to submit required documents, i.e., valid Voter ID Card 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 07.11.2022 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.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure her presence but without any response as she has never appeared before us except on one date, i.e., 09.02.2023. The perusal of the

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Zimni Orders shows that the Appeal was put up before us for the first time on 09.02.2023 and after conducting oral enquiry the matter was fixed for 24.02.2023 for tendering of documents by the parties in favour of their respective claim/stand. But the Appellant/ Claimant did not appear on 24.02.2023 and accordingly fresh notice for 27.03.2023 was issued to procure the appearance of the present Appellant/ Claimant. But the Appellant/ Claimant did not appear on 27.03.2023 and accordingly fresh notice for 11.04.2023 was issued to procure the appearance of the present Appellant/ Claimant. But she had failed to appear on 11.04.2023 and fresh notice was issued for 04.05.2023. The Appellant/ Claimant did not appear on 04.05.2023 and fresh notice to procure her presence was issued for 05.06.2023. But the file was taken up on 30.05.2023 and the appeal was fixed for 26.07.2023 to give priority to other cases and fresh notice was issued to procure her presence for 26.07.2023 for conducting further proceedings. The present Appellant/ Claimant did not appear on 26.07.2023 and fresh notice was issued to procure her presence for 04.08.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 04.08.2023 in spite of due service.

7. On 04.08.2023 fresh notice was issued for 10.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

8. However, still none appeared on 10.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 25.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

9. However, still none appeared on 25.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 28.08.2023 with the direction that it be got served by deputing an official/special

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messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

10. However, still none appeared on 28.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 30.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

11. However, still none appeared on 30.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 31.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

12. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 31.08.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 612 of 2023 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether she is entitled for alternate allotment as per policy guidelines issued by DDA.

13. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a

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separate Ration 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.

14. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card etc. as on 01.01.2015 and 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. The documents available on file 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.

15. In view of the matter the present we have no hesitation in holding that 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. 385/67/044.G/1520 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 612 of 2023 instituted on 09.12.2022 is dismissed being devoid of any merit.

16. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 652 of 2023

Date of Institution: 09.01.2023

Date of Order: 31.08.2023

Present: Appellant/ Claimant Sangeeta W/o Radheyshyam D/o Ram Nath

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 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, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-114 was found to exist on the ground floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/45/0011.G/1104 dated

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07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 652 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 11.08.2023. 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 Prakash Chand, Dy. Director, & Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-114 was found to exist on the ground floor but she had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee (EDC) has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 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 No. 652 of 2023.

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 she was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi bearing No. B-508 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Sangeeta, has been recorded before us on 11.08.2023, wherein she has stated that she is married with Radhey Shyam and having one son Akash and four daughters, Rashmi, Jyoti, Neha & Muskan. Akash & Muskan are unmarried. Rashmi is married with Dheeraj and she is living in her matrimonial home

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in Bhajanpura, Delhi. Neha is married with Pawan and she is living in her matrimonial home in Govindpuri, Delhi. Jyoti is married with Sachin and she is living with her parents in Bhoomiheen Camp, Delhi.

9. The Appellant/Claimant has stated that she is having a double storey Jhuggi No. A-114 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor. The Appellant/Claimant has stated that her daughter Jyoti along with her husband Sachin on the first floor of Jhuggi No. A-114 but Jyoti has not submitted any claim to seek allotment from DDA against the first floor of Jhuggi No. A-114.

10. The Appellant/Claimant has stated that she along with her husband Radhey Shyam and both the unmarried children, Akash & Muskan, is living on the ground floor of Jhuggi No. A-114. The Appellant/Claimant has sought allotment from DDA against the ground floor of the said Jhuggi No. A-114 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 652 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, 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 the survey record along with two video clips pertaining to Jhuggi No. A-114. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 11.08.2023 wherein the Appellant/Claimant has stated that all the three video clips pertain to the ground floor of Jhuggi No. A-114 in which the Appellant/Claimant as well as her daughters, Muskan & Jyoti, are seen and further, the room & kitchen of the Appellant/Claimant are also seen. There is no video of the first floor of the Jhuggi No. A-114. Thus the statement of the Appellant/Claimant as well as the survey records/video clip has duly proved that the Jhuggi No. A-114 of the Appellant/Claimant is a double storey structure and it was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the ground floor is used by the Appellant/Claimant & her family for residential purposes.

12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-114 in Bhoomiheen Camp is a pucca structure and it was in existence much prior to the cutoff date of 01.01.2015 and further, the Appellant/Claimant & her family has been using it for residential purposes.

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13. 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 Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the ground floor of the said Jhuggi bearing No. A-114 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. 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."

16. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and 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.

17. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-

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01-2015) & also in the year of survey and whether she is entitled to claim allotment against Jhuggi bearing No. A-114 as per the policy guidelines issued by DDA.

18. The Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C) and PAN Card (Annexure-D).

19. 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 ARE 1150578 and it has been issued on 20.04.2010, much prior to the cutoff date 01.01.2015 and the second Voter ID Card (Annexure-B) is bearing number ARE 2611135 and it has been issued on 06.01.2023, much after the cutoff date 01.01.2015.

20. The Appellant/Claimant has failed to explain the reasons of having got two Voter ID Cards issued in her favour. Furthermore, the Appellant/Claimant has not tendered any Voter Lists to shows that she had used any of the Voter ID Cards (Annexure-A & Annexure-B) to cast her vote in any of the elections and more specifically from the years 2012 to 2019. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 but no material is placed on file to show that her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, she Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

22. It is pointed out that the Appellant/Claimant has tendered two Ration Cards (Annexure-E & Annexure-F). The first Ration Card (Annexure-E) has been issued in favour of the Appellant/Claimant on 20.12.1996 whereas the second Ration Card (Annexure-F) has also been issued in favour of the Appellant/Claimant on 10.09.2021. The Passbook of Union Bank (Annexure-G) shows that the Appellant/Claimant had opened the account on 21.12.2021, much after the cutoff date 01.01.2015. The Passbook of Bank of Karnataka (Annexure-I) shows that the Appellant/Claimant had opened the account but the date of opening of account is not mentioned in this document. The Electricity Bill (Annexure-H) shows that the electricity connection has been taken by the Appellant/Claimant on 05.12.2015, much after the cutoff date 01.01.2015. It is pointed out that the above-mentioned

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documents are of no help to the Appellant/Claimant because these document do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the name of the Appellant/ Claimant does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23. The material placed on file shows that the name of the Appellant/ Claimant does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents, Annexure-A to Annexure-I, 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. Accordingly, we have no hesitation in holding that the name of the Appellant/ Claimant does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

24. 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. 385/45/0011.G/1104 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

25. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 639 of 2023

Date of Institution: 28.12.2022

Date of Order: 31.08.2023

Present: Appellant/Claimant Sumit Sharma S/o Bidhu Bhushan Sharma

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-422, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-422 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/37/4.1/990

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dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 639 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 10.08.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-422 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of the Jhuggi bearing No. B-422 as per the policy guidelines issued by DDA

8. The statement of the Appellant/Claimant, Sumit Sharma, has been recorded before us on 10.08.2023, wherein he has stated that his parents, Bidhu Bhushan & Rupali, are having three sons, Sumit, Raj Kumar & Rakesh and one daughter, Suniti. Rupali had

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expired on 22.04.2021. All the children except Rakesh are married. Suniti is married with Tapan and she is living in her matrimonial home in Ludhiana, Punjab. Raj Kumar is married with Shivani and having one son Aryan. Sumit (Appellant/Claimant) is married with Anjana and having two children, Piyush & Kavya.

9. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi No. B-422 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that his parents, Bidhu Bhushan & Rupali (until her death on 22.04.2021) along with their unmarried son Rakesh are living on the ground floor of the Jhuggi No. B-422 regarding that DDA has made allotment in favour of his mother Rupali and after her death mutation has been sanction in favour of her husband Bidhu Bhushan by DDA. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that his brother Raj Kumar along with his wife Shivani & son Aryan is living on the second floor of the Jhuggi No. B-422 but he has not sought allotment from DDA against the second floor of the Jhuggi No. B-422. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that he along with his wife Anjana and both the children, Piyush & Kavya, is living on the first floor of the Jhuggi No. B-422. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. B-422 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 639 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-O, in support of his claim and prayed that DDA be directed to make allotment in his favour.

13. DDA has furnished the survey record along with five video clips pertaining to Jhuggi No. B-422. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 10.08.2023. The Appellant/Claimant has stated that two video clips pertain to the ground floor of the Jhuggi No. B-422 in which his mother, Rupali, is seen and further her room & kitchen are also seen. The next three video clips pertain to the first floor of Jhuggi No. B-422, in which a pucca staircase is seen going from ground floor to the first floor and further, the Appellant/Claimant is seen and his room & kitchen are also seen on the first floor. Thus the statement of the

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Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. B-422 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by his parents, Bidhu Bhushan & Rupali, whereas the first floor is used by the Appellant/ Claimant along with his family for residential purposes.

14. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-422 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

15. 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 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. B-422 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-O, in support of her 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 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 all the requisite documents, including, Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further his name 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. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/37/4.1/990 dated 07.11.2022.

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

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

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

19. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

20. As already pointed out above, condition contained in Part–B Para 10 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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21. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

22. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

23. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor of the Jhuggi No. B-422 as per the policy guidelines issued by DDA.

24. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether

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he is entitled to claim allotment against the first floor of Jhuggi No. B-422 as per the policy guidelines issued by DDA.

25. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-A/1), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-N) and Voter List of the year 2019 (Annexure-O).

26. It is pointed out that the Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-A/1) and both the Voter ID Cards are bearing the same number i.e. CXY 1075696. The first Voter ID Card No. CXY 1075696 (Annexure-A) has been issued on 07.03.2002, much prior to the cutoff date 01.01.2015 whereas the second Voter ID Card No. CXY 1075696 (Annexure-A/1) has been issued on 03.03.2022, much after the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 448 in the Voter List of the year 2014 (Annexure-N) and at Sl. No. 520 in the Voter List of the year 2019 (Annexure-O). But the Appellant/Claimant has not tendered the voter list of the year's 2012, 2013 and 2015 (prior to 01-01-2015) to show that he had used the Voter ID Card No. CXY 1075696 to cast his vote in these years. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in the Voter List of the year's 2014 & also in the year of survey but there is no material on file to show that his name also appears in the voter list of the year's 2012, 2013 and 2015 (prior to 01-01-2015). Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA

27. 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. B-422 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered Ration Card (Annexure-M), which has been issued in favour of his mother, Rupali, and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned therein. 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 the first floor of Jhuggi No. B-422. Therefore, we have no hesitation in holding that the

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Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

28. The Appellant/Claimant has tendered his Driving License (Annexure-D), Passbook of SBI (Annexure-E) as well as the Voter ID Card No. ARE 1649499 (Annexure-F), Aadhar Card (Annexure-G), PAN Card (Annexure-H) & the Passbook of PNB (Annexure-I) of his wife Anjana and Aadhar Card (Annexure-J) of his son Piyush, Aadhar Card (Annexure-K) of his daughter Kavya and Electricity Bill (Annexure-L).

29. It is pointed out that the Driving License (Annexure-D) of the Appellant/Claimant has been issued on 19.08.1999. The Passbook of SBI (Annexure-E) shows that the Appellant/Claimant had opened the account on 21.07.2007. The Voter ID Card No. ARE 1649499 (Annexure-F) of his wife, Anjana, has been issued on 03.03.2022, much after the cutoff date 01.01.2015. The Passbook of PNB (Annexure-I) shows that his wife Anjana had opened the account on 26.08.2014. The Electricity Bill (Annexure-L) shows that the electricity connection has been taken by his father, Bidhu Bhushan, on 31.05.2008 on the ground floor of the Jhuggi No. B-422, thereby, showing that the Appellant/Claimant was not having a separate electricity connection on the first floor of the Jhuggi No. B-422 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these document do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not 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.

30. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in the voter list of the years 2012, 2013 and 2015 (prior to 01-01-2015). The documents, Annexure-A to Annexure-O, 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 separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

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31. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-422 regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the years 2012, 2013 and 2015 (prior to 01-01-2015). Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

32. 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. 385/37/4.1/990 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

33. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 576 of 2023

Date of Institution: 06.12.2022

Date of Order: 31.08.2023

Present: Appellant/Claimant Sangeeta Rai W/o Bittoo Rai D/o Prasant Patro

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-15, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-15 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/66/21.1.1/1464 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 576 of 2023 has been filed by the present Appellant/Claimant.

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3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 09.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-15 was found to exist on the upper floor but she had failed to submit required documents, i.e., Voter ID Card & a separate Ration Card on the cutoff date of 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 hers by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified//No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi bearing No. A-15 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Sangeeta Rai, has been recorded before us on 09.08.2023 wherein she has stated that her in-laws, Pankaj Rai & Kalpana Rai, are having two sons, Pradeep & Bittoo and one daughter Shivani. Pankaj Rai had expired on 12.01.2023. All the children are married. Shivani is married with Makhan and she is living in her matrimonial home in Noida, Uttar Pradesh. Pradeep is married with Rupa

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and having one son Prem. Bittoo is married with Sangeeta (Appellant/Claimant) & having one daughter, Kritika.

9. The Appellant/Claimant has stated that her family is having a triple storey Jhuggi bearing No. A-15 and it comprises of one room on each floor.

10. The Appellant/Claimant has stated that her in-laws, Pankaj Rai & Kalpana Rai, are living on the ground floor of the Jhuggi No. A-15 and regarding that DDA has made allotment in favour of her mother-in-law, Kalpana. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that Pradeep along with his wife Rupa & son Prem is living on the second floor of the Jhuggi No. A-15 but she does not know whether Pradeep has filed claim for seeking allotment from DDA against the second floor of the Jhuggi No. A-15.

12. The Appellant/Claimant has stated that she along with her husband Bittoo and daughter Kritika is living on the first floor of the Jhuggi No. A-15. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. A-15 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 576 of 2023 before the Appellate Authority for redressal. 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.

13. DDA has furnished the survey record along with nine video clips pertaining to the Jhuggi No. A-15. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 09.08.2023 wherein she has stated that three video clips pertain to the ground floor of the Jhuggi No. A-15 in which her mother-in-law, Kalpana Rai, is seen on the ground floor of the Jhuggi No. A-15 and further her room & kitchen are also seen. The next three video clips pertain to the first floor of the Jhuggi No. A-15 in which the Appellant/Claimanto Sangeetao is seen and her room & kitchen are also seen and further, a pucca staircase going from the ground floor to the first floor is also seen. The next three videos pertain to the second floor of the Jhuggi No. A-15 in which her brother-in-law, Pradeep, is seen and further, his room is seen but no kitchen is seen and further, a pucca staircase used for going from the first floor to the second floor is also seen. Thus the statement of the Appellant/Claimant as well

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as the survey records/video clips has duly proved that triple storey Jhuggi No. A-15 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and her in-laws, Pankaj Rai & Kalpana Rai, are living on the ground floor whereas the Appellant/Claimant along with her family is living separately & independently on the first floor of the said Jhuggi No. A-15.

14. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. A-15 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant is using the first floor of Jhuggi No. A-15 for residential purposes.

15. 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 first floor of Jhuggi No. A-15 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-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 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 all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further her name 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. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/66/21.1.1/1464 dated 07.11.2022.

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

> **"Part-B**
> **<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.
>
> **<u>As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:</u>**
>
> - Passport.
> - Ration Card with photograph.
> - Electricity Bill
> - Driving License.
> - Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
> - Passbook issued by public sector Bank/Post Office with photograph.
> - SC/ST/OBC certificates issued by Competent Authority with photograph.

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

19. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

20. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is

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

GIST OF THE POLICY

22. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of the survey.

23. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi No. A-15 as per the policy guidelines issued by DDA.

24. The Appellant/Claimant has tendered her Voter ID Card bearing No. ARE 2105310 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C).

25. It is pointed out that the Voter ID Card No. ARE 2105310 (Annexure-A) has been issued on 30.03.2016, much after the cut off date of 01.01.2015 and accordingly, the question of her name appearing in the Voter List of the years 2012 to 2019 does not arise. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 and her name also does not appear in voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of the survey. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

26. The Appellant/Claimant has admitted that she 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. A-15 regarding which he is claiming allotment from DDA. The Appellant/Claimant has

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tendered Ration Card (Annexure-H), which has been issued in favour of her father-in-law, Pankaj, on 18.07.2009 and the name of the her husband Bittoo has been mentioned but that of the Appellant/Claimant is not mentioned. 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 the Jhuggi No. A-15. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

27. The Appellant/Claimant has tendered the Voter ID Card No. ARE 2105534 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of her husband Bittoo as well as the Passbook of PNB (Annexure-G), Electricity Bill (Annexure-I) and Aadhar Card (Annexure-J) of her daughter Kritika.

28. It is pointed out that the Voter ID Card No. ARE 2105534 (Annexure-D) of her husband Bittoo has been issued on 30.03.2016, much after the cut off date of 01.01.2015. This shows that neither the Appellant/Claimant nor her husband Bittoo 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-15 regarding which the Appellant/Claimant is seeking allotment from DDA. The Passbook of PNB (Annexure-G) shows that the Appellant/Claimant has opened the account but the date of opening the account is not mentioned. The Electricity Bill (Annexure-I) shows that the connection has been taken by her father-in-law, Pankaj, on 20.05.2008 thereby showing that the Appellant/Claimant was not having an electricity connection on the first floor of the Jhuggi No. A-15 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 separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

29. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card & separate Ration Card on the cutoff date of 01.01.2015 and further and her

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name also does not appear in voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of the survey. The documents, Annexure-A to Annexure-J, 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 separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she is claiming allotment against the upper floor.

30. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card & separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-15 regarding which she is claiming allotment from DDA and further and her name also does not appear in voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of the survey. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

31. 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. 385/66/21.1.1/1464 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

32. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 612 of 2023

Date of Institution: 09.12.2022

Date of Order: 31.08.2023

Present: None for the Appellant/ Claimant Doli W/o Vipin Majhi D/o Bello Manjhi

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-211, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-211 was found to exist on the ground floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/67/044.G/1520 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 612 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-211 was found to exist on the ground floor but she had failed to submit required documents, i.e., valid Voter ID Card 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 07.11.2022 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.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure her presence but without any response as she has never appeared before us except on one date, i.e., 09.02.2023. The perusal of the

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Zimni Orders shows that the Appeal was put up before us for the first time on 09.02.2023 and after conducting oral enquiry the matter was fixed for 24.02.2023 for tendering of documents by the parties in favour of their respective claim/stand. But the Appellant/ Claimant did not appear on 24.02.2023 and accordingly fresh notice for 27.03.2023 was issued to procure the appearance of the present Appellant/ Claimant. But the Appellant/ Claimant did not appear on 27.03.2023 and accordingly fresh notice for 11.04.2023 was issued to procure the appearance of the present Appellant/ Claimant. But she had failed to appear on 11.04.2023 and fresh notice was issued for 04.05.2023. The Appellant/ Claimant did not appear on 04.05.2023 and fresh notice to procure her presence was issued for 05.06.2023. But the file was taken up on 30.05.2023 and the appeal was fixed for 26.07.2023 to give priority to other cases and fresh notice was issued to procure her presence for 26.07.2023 for conducting further proceedings. The present Appellant/ Claimant did not appear on 26.07.2023 and fresh notice was issued to procure her presence for 04.08.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 04.08.2023 in spite of due service.

7. On 04.08.2023 fresh notice was issued for 10.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

8. However, still none appeared on 10.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 25.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

9. However, still none appeared on 25.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 28.08.2023 with the direction that it be got served by deputing an official/special

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messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

10. However, still none appeared on 28.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 30.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

11. However, still none appeared on 30.08.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 31.08.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

12. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 31.08.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 612 of 2023 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether she is entitled for alternate allotment as per policy guidelines issued by DDA.

13. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a

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separate Ration 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.

14. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card etc. as on 01.01.2015 and 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. The documents available on file 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.

15. In view of the matter the present we have no hesitation in holding that 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. 385/67/044.G/1520 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 612 of 2023 instituted on 09.12.2022 is dismissed being devoid of any merit.

16. 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.

31.8.2023

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

31/8/2023

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

31/8/2023

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 652 of 2023

Date of Institution: 09.01.2023

Date of Order: 31.08.2023

Present: Appellant/ Claimant Sangeeta W/o Radheyshyam D/o Ram Nath

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 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, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-114 was found to exist on the ground floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/45/0011.G/1104 dated

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07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 652 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 11.08.2023. 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 Prakash Chand, Dy. Director, & Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-114 was found to exist on the ground floor but she had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee (EDC) has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 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 No. 652 of 2023.

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 she was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi bearing No. B-508 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Sangeeta, has been recorded before us on 11.08.2023, wherein she has stated that she is married with Radhey Shyam and having one son Akash and four daughters, Rashmi, Jyoti, Neha & Muskan. Akash & Muskan are unmarried. Rashmi is married with Dheeraj and she is living in her matrimonial home

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in Bhajanpura, Delhi. Neha is married with Pawan and she is living in her matrimonial home in Govindpuri, Delhi. Jyoti is married with Sachin and she is living with her parents in Bhoomiheen Camp, Delhi.

9. The Appellant/Claimant has stated that she is having a double storey Jhuggi No. A-114 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor. The Appellant/Claimant has stated that her daughter Jyoti along with her husband Sachin on the first floor of Jhuggi No. A-114 but Jyoti has not submitted any claim to seek allotment from DDA against the first floor of Jhuggi No. A-114.

10. The Appellant/Claimant has stated that she along with her husband Radhey Shyam and both the unmarried children, Akash & Muskan, is living on the ground floor of Jhuggi No. A-114. The Appellant/Claimant has sought allotment from DDA against the ground floor of the said Jhuggi No. A-114 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 652 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, 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 the survey record along with two video clips pertaining to Jhuggi No. A-114. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 11.08.2023 wherein the Appellant/Claimant has stated that all the three video clips pertain to the ground floor of Jhuggi No. A-114 in which the Appellant/Claimant as well as her daughters, Muskan & Jyoti, are seen and further, the room & kitchen of the Appellant/Claimant are also seen. There is no video of the first floor of the Jhuggi No. A-114. Thus the statement of the Appellant/Claimant as well as the survey records/video clip has duly proved that the Jhuggi No. A-114 of the Appellant/Claimant is a double storey structure and it was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the ground floor is used by the Appellant/Claimant & her family for residential purposes.

12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-114 in Bhoomiheen Camp is a pucca structure and it was in existence much prior to the cutoff date of 01.01.2015 and further, the Appellant/Claimant & her family has been using it for residential purposes.

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13. 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 Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the ground floor of the said Jhuggi bearing No. A-114 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. 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."

16. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and 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.

17. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-

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01-2015) & also in the year of survey and whether she is entitled to claim allotment against Jhuggi bearing No. A-114 as per the policy guidelines issued by DDA.

18. The Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C) and PAN Card (Annexure-D).

19. 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 ARE 1150578 and it has been issued on 20.04.2010, much prior to the cutoff date 01.01.2015 and the second Voter ID Card (Annexure-B) is bearing number ARE 2611135 and it has been issued on 06.01.2023, much after the cutoff date 01.01.2015.

20. The Appellant/Claimant has failed to explain the reasons of having got two Voter ID Cards issued in her favour. Furthermore, the Appellant/Claimant has not tendered any Voter Lists to shows that she had used any of the Voter ID Cards (Annexure-A & Annexure-B) to cast her vote in any of the elections and more specifically from the years 2012 to 2019. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 but no material is placed on file to show that her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, she Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

22. It is pointed out that the Appellant/Claimant has tendered two Ration Cards (Annexure-E & Annexure-F). The first Ration Card (Annexure-E) has been issued in favour of the Appellant/Claimant on 20.12.1996 whereas the second Ration Card (Annexure-F) has also been issued in favour of the Appellant/Claimant on 10.09.2021. The Passbook of Union Bank (Annexure-G) shows that the Appellant/Claimant had opened the account on 21.12.2021, much after the cutoff date 01.01.2015. The Passbook of Bank of Karnataka (Annexure-I) shows that the Appellant/Claimant had opened the account but the date of opening of account is not mentioned in this document. The Electricity Bill (Annexure-H) shows that the electricity connection has been taken by the Appellant/Claimant on 05.12.2015, much after the cutoff date 01.01.2015. It is pointed out that the above-mentioned

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documents are of no help to the Appellant/Claimant because these document do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the name of the Appellant/ Claimant does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23. The material placed on file shows that the name of the Appellant/ Claimant does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents, Annexure-A to Annexure-I, 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. Accordingly, we have no hesitation in holding that the name of the Appellant/ Claimant does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

24. 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. 385/45/0011.G/1104 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

25. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 639 of 2023

Date of Institution: 28.12.2022

Date of Order: 31.08.2023

Present: Appellant/Claimant Sumit Sharma S/o Bidhu Bhushan Sharma

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-422, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-422 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/37/4.1/990

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dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 639 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 10.08.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-422 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of the Jhuggi bearing No. B-422 as per the policy guidelines issued by DDA

8. The statement of the Appellant/Claimant, Sumit Sharma, has been recorded before us on 10.08.2023, wherein he has stated that his parents, Bidhu Bhushan & Rupali, are having three sons, Sumit, Raj Kumar & Rakesh and one daughter, Suniti. Rupali had

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expired on 22.04.2021. All the children except Rakesh are married. Suniti is married with Tapan and she is living in her matrimonial home in Ludhiana, Punjab. Raj Kumar is married with Shivani and having one son Aryan. Sumit (Appellant/Claimant) is married with Anjana and having two children, Piyush & Kavya.

9. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi No. B-422 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that his parents, Bidhu Bhushan & Rupali (until her death on 22.04.2021) along with their unmarried son Rakesh are living on the ground floor of the Jhuggi No. B-422 regarding that DDA has made allotment in favour of his mother Rupali and after her death mutation has been sanction in favour of her husband Bidhu Bhushan by DDA. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that his brother Raj Kumar along with his wife Shivani & son Aryan is living on the second floor of the Jhuggi No. B-422 but he has not sought allotment from DDA against the second floor of the Jhuggi No. B-422. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that he along with his wife Anjana and both the children, Piyush & Kavya, is living on the first floor of the Jhuggi No. B-422. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. B-422 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 639 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-O, in support of his claim and prayed that DDA be directed to make allotment in his favour.

13. DDA has furnished the survey record along with five video clips pertaining to Jhuggi No. B-422. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 10.08.2023. The Appellant/Claimant has stated that two video clips pertain to the ground floor of the Jhuggi No. B-422 in which his mother, Rupali, is seen and further her room & kitchen are also seen. The next three video clips pertain to the first floor of Jhuggi No. B-422, in which a pucca staircase is seen going from ground floor to the first floor and further, the Appellant/Claimant is seen and his room & kitchen are also seen on the first floor. Thus the statement of the

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Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. B-422 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by his parents, Bidhu Bhushan & Rupali, whereas the first floor is used by the Appellant/ Claimant along with his family for residential purposes.

14. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-422 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

15. 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 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. B-422 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-O, in support of her 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 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 all the requisite documents, including, Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further his name 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. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/37/4.1/990 dated 07.11.2022.

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

> **"Part-B**
> **<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.
>
> **<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.

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

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

19. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

20. As already pointed out above, condition contained in Part–B Para 10 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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21. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

22. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

23. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor of the Jhuggi No. B-422 as per the policy guidelines issued by DDA.

24. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether

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he is entitled to claim allotment against the first floor of Jhuggi No. B-422 as per the policy guidelines issued by DDA.

25. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-A/1), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-N) and Voter List of the year 2019 (Annexure-O).

26. It is pointed out that the Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-A/1) and both the Voter ID Cards are bearing the same number i.e. CXY 1075696. The first Voter ID Card No. CXY 1075696 (Annexure-A) has been issued on 07.03.2002, much prior to the cutoff date 01.01.2015 whereas the second Voter ID Card No. CXY 1075696 (Annexure-A/1) has been issued on 03.03.2022, much after the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 448 in the Voter List of the year 2014 (Annexure-N) and at Sl. No. 520 in the Voter List of the year 2019 (Annexure-O). But the Appellant/Claimant has not tendered the voter list of the year's 2012, 2013 and 2015 (prior to 01-01-2015) to show that he had used the Voter ID Card No. CXY 1075696 to cast his vote in these years. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in the Voter List of the year's 2014 & also in the year of survey but there is no material on file to show that his name also appears in the voter list of the year's 2012, 2013 and 2015 (prior to 01-01-2015). Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA

27. 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. B-422 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered Ration Card (Annexure-M), which has been issued in favour of his mother, Rupali, and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned therein. 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 the first floor of Jhuggi No. B-422. Therefore, we have no hesitation in holding that the

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Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

28. The Appellant/Claimant has tendered his Driving License (Annexure-D), Passbook of SBI (Annexure-E) as well as the Voter ID Card No. ARE 1649499 (Annexure-F), Aadhar Card (Annexure-G), PAN Card (Annexure-H) & the Passbook of PNB (Annexure-I) of his wife Anjana and Aadhar Card (Annexure-J) of his son Piyush, Aadhar Card (Annexure-K) of his daughter Kavya and Electricity Bill (Annexure-L).

29. It is pointed out that the Driving License (Annexure-D) of the Appellant/Claimant has been issued on 19.08.1999. The Passbook of SBI (Annexure-E) shows that the Appellant/Claimant had opened the account on 21.07.2007. The Voter ID Card No. ARE 1649499 (Annexure-F) of his wife, Anjana, has been issued on 03.03.2022, much after the cutoff date 01.01.2015. The Passbook of PNB (Annexure-I) shows that his wife Anjana had opened the account on 26.08.2014. The Electricity Bill (Annexure-L) shows that the electricity connection has been taken by his father, Bidhu Bhushan, on 31.05.2008 on the ground floor of the Jhuggi No. B-422, thereby, showing that the Appellant/Claimant was not having a separate electricity connection on the first floor of the Jhuggi No. B-422 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these document do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not 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.

30. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in the voter list of the years 2012, 2013 and 2015 (prior to 01-01-2015). The documents, Annexure-A to Annexure-O, 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 separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

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31. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-422 regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the years 2012, 2013 and 2015 (prior to 01-01-2015). Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

32. 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. 385/37/4.1/990 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

33. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 654 of 2023

Date of Institution: 10.01.2023

Date of Order: 31.08.2023

Present: Appellant/ Claimant Sanjay Thakur S/o Kailash Chand

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-296, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-296 was found to exist on the upper floor 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, Bhoomiheen Camp, duly communicated its order bearing No. 385/45/27.1/1108 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 654 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 14.08.2023. 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. Prakash Chand, 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-296 was found to exist but he had failed to submit required documents, i.e. separate Ration Card etc., 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of Jhuggi bearing No. A-296 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Sanju Thakur, has been recorded before us on 14.08.2023 wherein he has stated that his parents, Kailash Chand & Anjali, are

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having two sons, Balram and Sanju. Balram is unmarried. Sanju (Appellant/Claimant) is married with Meena and having one son, Piyush.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. A-296 and it comprises of one room on each floor and an iron ladder is placed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that his parents, Kailash Chand & Anjali, along with their unmarried son, Balram, are living on the ground floor of the Jhuggi No. A-296 and regarding that DDA has made allotment in favour his mother Anjali. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Meena & son Piyush is living on the first floor of the Jhuggi No. A-296. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-296 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 654 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-G, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished the survey record along with four video clips pertaining to Jhuggi No. A-296. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 14.08.2023 wherein the Appellant/Claimant has stated that the first video clip pertains to the ground floor of the Jhuggi No. A-296 in which his mother Anjali is seen and her room & kitchen are also seen and further, an iron ladder placed outside in the gali and used for going from ground floor to the upper floor is seen. The next two video clips pertain to the first floor of the Jhuggi No. A-296 in which the Appellant/Claimant is seen and further, his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. A-296 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by his parents, Kailash Chand & Anjali, whereas the first floor is used for residential purposes by the Appellant/ Claimant.

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13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-296 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant is using the first floor of Jhuggi No. A-296 for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor of Jhuggi No. A-296 as per the policy guidelines issued by DDA.

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

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name 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. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/45/27.1/1108 dated 07.11.2022.

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:

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"Part-B

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

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

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

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- 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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

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GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on 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. A-296 as per the policy guidelines issued by DDA.

23. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1139468 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2012 (Annexure-F) and Voter List of the year 2019 (Annexure-G).

24. It is pointed out that the Voter ID Card No. ARE 1139468 (Annexure-A) has been issued on 27.10.2008, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 411 in the Voter List of the year 2012 (Annexure-F) and at Sl. No. 526 in the Voter List of the year 2019 (Annexure-G). The Appellant/Claimant has not tendered any of the Voter Lists except the Voter List of the years 2012 (Annexure-F) & 2019 (Annexure-L) to show that the Appellant/Claimant had used his Voter ID Card No. ARE 1139468 (Annexure-A) to cast his vote in the years 2013, 2014 and 2015 (prior to 01-01-2015). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut-off date of 01.01.2015 and his name also appears in the voter list of the year's 2012 & 2019 but no Voter List of the years 2013, 2014 and 2015 (prior to 01-

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01-2015) have been tendered. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

25. 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. A-296 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 Jhuggi No. A-296. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

26. The Appellant/Claimant has tendered Aadhar Card (Annexure-D) and PAN Card (Annexure-E) of his wife Meena.

27. It is pointed out that the Appellant/Claimant has not tendered the Voter ID Card of his wife Meena to show that she had used her Voter ID to cast her vote in the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. It is pointed out that the above-mentioned document is 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 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.

28. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in the voter list of the years 2013, 2014 and 2015 (prior to 01-01-2015). The documents, Annexure-A to Annexure-G, 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/

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Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

29. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A- 296 regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the years 2013, 2014 and 2015 (prior to 01-01-2015). Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

30. 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. 385/45/27.1/1108 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

31. 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 BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 655 of 2023

Date of Institution: 10.01.2023

Date of Order: 31.08.2023

Present: Appellant/ Claimant Tuhin Addi S/o Ashok Addi

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-210, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-210 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility

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Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/60/16.1/1247 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 655 of 2022 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 02.08.2023. 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. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-210 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified//No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of

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survey and whether he is entitled to claim allotment against the first floor of Jhuggi bearing No. A-210 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Tuhin Aadi, has been recorded before us on 02.08.2023 wherein he has stated that his parents, Ashok & Kajal, are having one son Tuhin and three daughters, Anjana, Madhuri & Madhvi. All except Tuhin are married. Madhvi is married with Sujoy and she is living in her matrimonial home in West Bengal. Madhuri is married with Arun and she is living in her matrimonial home in Mangolpuri, Delhi. Anajana is married with Govind and she is living in her matrimonial home in Bhoomiheen Camp, Kalkaji.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. A-210 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that his parents, Ashok & Kajal, are living on the ground floor of the Jhuggi No. A-210 regarding that DDA has made allotment in favour of his mother Kajal. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he is living on the first floor of the Jhuggi No. A-210. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-210 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 655of 2023 before the Appellate Authority for redressal. 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.

12. DDA has furnished the survey record along with three video clips pertaining to Jhuggi No. A-210. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 02.08.2023 wherein the Appellant/Claimant has stated that the first video clip pertains to the ground floor of the Jhuggi No. A-210 in which his mother Kajal is seen and further, her room & kitchen are also seen. The next two video clips pertain to the first floor of the Jhuggi No. A-210 in which a pucca staircase constructed outside in the gali and used for going to the upper floor is seen and further Kautav, cousin of the present Appellant/Claimant is seen and getting the survey conducted on behalf of the Appellant/Claimant and further the room &

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kitchen of the Appellant/Claimant are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. B-422 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by his mother, Kajal, whereas the first floor is used by the Appellant/ Claimant along with his family for residential purposes.

13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-210 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with his family is using the first floor of the said Jhuggi for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor of Jhuggi No. A-210 as per the policy guidelines issued by DDA.

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

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01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/60/16.1/1247 dated 07.11.2022.

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.
>
> **<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.

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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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration

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card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration 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.

22. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor of the Jhuggi No. A-210 as per the policy guidelines issued by DDA.

23. The Appellant/Claimant has tendered his Voter ID Card No. ARE 2056199 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C).

24. It is pointed out that the Voter ID Card No. ARE 2056199 (Annexure-A) has been issued on 20.06.2015, much after the cutoff date 01.01.2015 and accordingly his name appearing in the Voter List of the years 2012 to 2019 does not arise. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut-off date of 01.01.2015 and his 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. Therefore, we have no hesitation in holding that the

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

25. 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 second floor of the Jhuggi No. A-210 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the Ration Card (Annexure-F), which has been issued in favour of his mother, Kajal, in which the name of the Appellant/Claimant is not mentioned but the date of issuance is not mentioned. 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. A-210 regarding which he has claimed allotment from 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, which make separate Ration Card a mandatory document for the upper floor.

26. The Appellant/Claimant has tendered his Driving License (Annexure-D), the Passbook of PNB (Annexure-C) and Electricity Bill (annexure-G).

27. It is pointed out that Driving License (Annexure-D) of the Appellant/Claimant has been issued on 29.07.2015, much after the cutoff date 01.01.2015. The Passbook of PNB (Annexure-E) shows that the Appellant/Claimant had opened the account on 14.09.2020, much after the cutoff date 01.01.2015. The Electricity Bill (Annexure-G) shows that the electricity connection has been taken by his father, Ashok Aadi, on 07.06.2008 on the ground floor of the Jhuggi No. A-210 thereby showing that the Appellant/Claimant is not having separate electricity connection on the first floor of the Jhuggi No. A-210 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a 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.

28. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card & a separate Ration Card on the cut-off date of 01.01.2015 and further

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his 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. The documents, Annexure-A to Annexure-G, 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 separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

29. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card & a separate Ration Card on the cut-off date of 01.01.2015 and further his name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

30. 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. 385/60/16.1/1247 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

31. 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.

31-8-2023

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

31/8/2023

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

31/8/2023

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 702 of 2023

Date of Institution: 03.02.2023

Date of Order: 31.08.2023

Present: Appellant/Claimant Hari Ram Burman S/o Ravi Burman

Sh. Prakash Chand, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 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-391, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. 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 early in the year 2022 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 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-391 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal

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Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/67/086.1.1/1536 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 702 of 2023 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. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 08.08.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-391 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of Jhuggi bearing No. B-391 as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant, Hari Ram, has been recorded before us on 08.08.2023 wherein he has stated that his parents Ravi Burman & Leela, are having two sons, Hari Ram & Balai, and one daughter Purnima. All the children are married. Purnima is married with Gorang and she is living in her matrimonial home bearing Jhuggi No. B-387, Bhoomiheen Camp, Kalkaji and regarding that DDA has made allotment in her favour from her matrimonial side. Balai is married with Shikha and having two children, Riya & Vivek. Hari Ram (Appellant/Claimant) is married with Deepika and having one son Abhay.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. B-391 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that his parents, Ravi Burman & Leela, along with the family of their son Balai are living on the ground floor of the Jhuggi No. B-391 and regarding that DDA has made allotment in favour of his mother, Leela. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Deepika and son Abhay is living on the first floor of the Jhuggi No. B-391. The Appellant/Claimant has sought allotment against the first floor of the said Jhuggi No. B-391 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 702 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-I, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished the survey record along with six video clips pertaining to Jhuggi No. B-391. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 08.08.2023 in which the Appellant/Claimant has stated that the four video clips pertain to the ground floor of the Jhuggi No. B-391 in which his mother, Leela, is seen and further her room & kitchen are also seen. The next two video clips pertain to the first floor of the Jhuggi No. B-391 in which the Appellant/Claimant is seen and further his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that double storey Jhuggi No. B-391 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by his

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parents, Ravi Burman & Leela, whereas the first floor is used by the Appellant/ Claimant along with his family for residential purposes.

13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-391 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with his family is using the first floor of the said Jhuggi for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & 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. B-391 as per the policy guidelines issued by DDA.

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

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but 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 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. 385/67/086.1.1/1536 dated 07.11.2022.

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:

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"Part-B

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

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

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

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- 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."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 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 Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

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GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further 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, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22. 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 & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor of Jhuggi No. B-391 as per the policy guidelines issued by DDA.

23. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1775600 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter List of the year 2019 (Annexure-I).

24. It is pointed out that the Voter ID Card No. ARE 1775600 (Annexure-A), has been issued on 20.03.2018, much after the cutoff date 01.01.2015 and accordingly the question of his name appearing in the Voter Lists of the year 2012 to 2019 does not arise. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015), therefore, he Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

25. 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. B-391 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered Ration Card (Annexure-H), which has been issued in favour of his mother

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Leela and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. 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 Jhuggi No. B-391. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

26. The Appellant/Claimant has tendered his Driving License (Annexure-D as well as the Voter ID Card No. ARE 2274623 (Annexure-E) & Aadhar Card (Annexure-F) of his wife Deepika and Electricity Bill (Annexure-G).

27. It is pointed out that the Driving License (Annexure-D) of the Appellant/Claimant has been issued on 28.09.2009. The Voter ID Card No. ARE2274623 (Annexure-E) of his wife Deepika has been issued on 25.04.2019, much after the cutoff date 01.01.2015. This accordingly shows that neither the Appellant/Claimant nor his wife Deepika was having a valid Voter ID Card on the cutoff date 01.01.2015 issued on the address of the Jhuggi No. B-391 regarding which the Appellant/Claimant is seeking allotment from DDA. The Electricity Bill (Annexure-G) shows that the electricity connection has been taken by his father, Ravi Burman, on 31.05.2008 on the ground floor of the Jhuggi No. B-391, thereby, showing that the Appellant/Claimant was not having separate electricity connection on the first floor of the Jhuggi No. B-391 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a 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.

28. The material placed on file shows that the Appellant/ Claimant 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 the voter list of the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015). The documents, Annexure-A to Annexure-I, 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 separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

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29. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-391 regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015). Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

30. 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. 385/67/086.1.1/1536 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

31. 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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