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

S.No	APPLICANT NAME	JHUGGI NO.	APPEAL NO.	APPEAL DATE	DATE OF ORDER	REMARKS
1	Shubha Rani W/o Surender Burman D/o Lalit	A-266	68/2022	21.11.2022	01.02.2023	**ALLOWED**
2	Nizamuddin Malik S/o Amiruddin Malik	D-705	451/2023	30.11.2022	01.02.2023	REJECTED
3	Renu D/o Jai Bhagwan	A-244	463/2023	30.11.2022	01.02.2023	REJECTED
4	Rahul S/o Om Parkash	B-343	467/2023	30.11.2022	01.02.2023	REJECTED
5	Sangeeta W/o Ramesh D/o Feeran Singh	B-60	94/2022	21.11.2022	02.02.2023	REJECTED
6	Anita W/o Bhikam Pal	B-60	95/2022	21.11.2022	02.02.2023	REJECTED
7	Kamal S/o Babu Lal	B-60	96/2022	21.11.2022	02.02.2023	REJECTED
8	Suman W/o Dal Chand D/o Khachedu	B-60	97/2022	21.11.2022	02.02.2023	REJECTED
9	Savitri W/o Ramanand D/o Vinod	B-344	52/2022	21.11.2022	07.02.2023	REJECTED
10	Azruddin S/o Jakir Hussain	C-333	230/2022	23.11.2022	07.02.2023	REJECTED
11	Kalpana W/o Sunil Kumar D/o Santosh Haldar	C-603	450/2023	30.11.2022	07.02.2023	REJECTED
12	Javedanand S/o Ramanand Sarkar	C-241	485/2023	01.12.2022	07.02.2023	REJECTED
13	Ratna Das W/o Pran Govind Das D/o Pradeep Kumar	B-442	106/2022	22.11.2022	10.02.2023	REJECTED
14	Rajesh S/o Ram Prasad	A-28	119/2022	22.11.2022	10.02.2023	REJECTED
15	Sanjeevani W/o Sanjeev Kumar D/o Veer Pal	D-107	501/2023	01.12.2022	10.02.2023	REJECTED
16	Sundari Devi W/o Abhimanyu Sharma D/o Maha Dev	B-679	551/2023	06.12.2022	10.02.2023	REJECTED
17	Gokul Viswas S/o Nityanand Viswas	A-325	280/2023	25.11.2022	13.02.2023	REJECTED

18	Tulsi Biswas Widow of Biren Biswas D/o Mihir Mandal	A-325/1	282/2023	25.11.2022	13.02.2023	REJECTED
19	Amit Kumar Pathak S/o Mohitosh	C-281	518/2023	02.12.2022	13.02.2023	REJECTED
20	Sangeeta Parjapati W/o Ambika Parjapati	C-562	593/2023	07.12.2023	13.02.2023	REJECTED
21	Anju W/o Ajay	B-594	107/2022	22.11.2022	14.02.2023	REJECTED
22	Prashant Das S/o Niranjan Das	B-253	113/2022	22.11.2022	14.02.2023	REJECTED
23	Savita W/o Mohd. Nurul D/o Ram Prasad	C-345	148/2022	22.11.2022	14.02.2023	REJECTED
24	Praveen Kumar Jha S/o Udgar Jha	C-102	514/2023	02.12.2022	14.02.2023	REJECTED
25	Parmod Tiwari S/o Ravinder Tiwari	A-98	278/2023	25.11.2022	15.02.2023	REJECTED
26	Mithlesh W/o Jagdish Prasad D/o Asa Ram	D-152	541/2023	05.12.2022	15.02.2023	REJECTED
27	Anjali W/o Ram Parkash	C-580	599/2023	08.12.2022	15.02.2023	REJECTED
28	Amit Saha S/o Kishore Saha	C-140	602/2023	24.11.2022	15.02.2023	REJECTED
29	Sunil Yadav S/o Dinesh Yadaav	A-172	84/2022	21.11.2022	16.02.2023	REJECTED
30	Sumitra Devi W/o Sh. Ghanshyam	A-143	86/2022	21.11.2022	16.02.2023	REJECTED
31	Anil Kumar S/o Dinesh Singh	A-172	139/2022	22.11.2022	16.02.2023	REJECTED
32	Ruby Devi W/o Manoj D/o Krishan Yadav	A-172	225/2022	23.11.2022	16.02.2023	REJECTED
33	Reshma Widow of Raja Ram D/o Vikram	A-117	116/2022	22.11.2022	20.02.2023	REJECTED
34	Purnima Haldar W/o Deepak Haldar D/o Pobhas Mandal	B-516	510/2023	02.12.2022	20.02.2023	REJECTED
35	Vishal Saha S/o Biggan Saha	C-117	536/2023	05.12.2022	20.02.2023	REJECTED
36	Savita Biswas W/o Ravi Biswas	B-100	597/2023	07.12.2022	20.02.2023	REJECTED
37	Pallab Haldar S/o Tarak Haldar	C-139/A	109/2022	22.11.2022	21.02.2023	REJECTED
38	Ashit Kumar Boiragi S/o Dev Prasad	B-217	487/2023	01.12.2022	21.02.2023	REJECTED

39	Neha Joshi W/o Deepak Kumar	D-92	575/2022	06.12.2022	21.02.2023	REJECTED
40	Indal Kumar S/o Kailash Prasad	C-195	581/2023	07.12.2022	21.02.2023	REJECTED
41	Nirmala W/o Subhash	B-594	115/2022	22.11.2022	22.02.2023	REJECTED
42	Chander Pal Kashyap S/o Om Pal Kashayap	C-101	62/2022	21.11.2022	22.02.2023	REJECTED
43	Rakesh S/o Hanumant	A-306	70/2022	21.11.2022	22.02.2023	REJECTED
44	Vimal Kumar S/o Rama Kant	B-664	354/2023	29.11.2022	22.02.2022	REJECTED
45	Bharti W/o Arvesh Kumar	D-124	607/2023	18.11.2022	23.02.2023	REJECTED
46	Raju Roy S/o Sunil Roy	B-157	616/2023	12.12.2022	23.02.2023	REJECTED
47	Pinki Rani Sikdar W/o William Sikdar D/o Dilip Karmakar	B-226	641/2023	29.11.2022	23.02.2023	REJECTED
48	Nabi Hasan Siddiqi S/o Ali Husan Sidiqui	A-26	643/2023	29.12.2022	23.02.2023	REJECTED
49	Chandan Kumar S/o Shiv Kumar Jha	C-105	05/2022	17.11.2022	24.02.2023	REJECTED
50	Tarkeshwar Kumari S/o Gopi Krishan Rai	C-105	06/2022	17.11.2022	24.02.2023	REJECTED
51	Vijay S/o Sugriv Sharma	D-123	127/2022	22.11.2022	24.02.2023	REJECTED
52	Vinay S/o Sugriv Sharma	D-123	606/2023	22.11.2022	24.02.2023	REJECTED
53	Pooja Kumari W/o Anjan Jha	A-11	136/2022	22.11.2022	27.02.2023	REJECTED
54	Narender Sarkar S/o Haricharan Sarkar	B-252	540/2023	05.12.2022	27.02.2023	REJECTED
55	Poonam Maheshwari W/o Sanjay Maheshwari	D-150	599/2023	31.01.2023	27.02.2023	REJECTED
56	Banwari Lal S/o Mangal Ram	D-211	700/2023	31.01.2023	27.02.2023	REJECTED
57	Bikram Das S/o Bhuban Das	B-405	172/2022	23.11.2023	28.02.2023	REJECTED
58	Nileema Dutta D/o Nitai Duttta	A-343	406/2023	29.11.2022	28.02.2023	REJECTED
59	Rihana D/o Babu Khan	B-22	683/2023	24.01.2023	28.02.2023	REJECTED

60	Munish Biswas S/o Sushen Biswas	B-402	395/2023	29.11.2022	28.02.2023	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: 68 of 2022

Date of Institution: 21.11.2022

Date of Order: 01.02.2023

Present: Appellant/ Claimant Shubha Rani W/o Surender Burman D/o Lalit

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-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. A-266 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. 385/58/0027.G/1127 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 68 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.

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4. The statement of the Appellant/Claimant has been recorded before us on 03.01.2023. 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 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-266 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.

   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 Voter ID card, Voter Lists, on the cutoff date of 01.01.2015.

7. Here it is pertinent to mention that the Appellant/ Claimant has sought alternate allotment under insitu Slum Redevelopment policy against Jhuggi No. A-266 as per policy guidelines issued by DDA. The survey was conducted of the said Jhuggi and the documents, i.e., Voter ID Card & Ration Card etc. furnished by the Appellant/ Claimant, were also verified and all the material including video clips were placed before EDC but it has rejected the claim of the present Appellant/ Claimant. The proceedings conducted by EDC have been placed before us thereby showing that it has recorded that as per survey record, the applicant's Jhuggi was found to exist on upper floor but it was found that the name of the present Appellant/Claimant appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) but her name was not found in the voter list of the year of survey and further her Voter ID Card ARE 1454155 was not found valid and accordingly it came to the conclusion that the Appellant/Claimant has failed to submit valid Voter ID Card and hence she does not fulfill the eligibility criteria and accordingly the Appellant/Claimant was found ineligible for alternative allotment as per policy guidelines, Part-B **The eligibility criteria for allotment of alternative dwelling units for rehabilitation and relocation JJ dwellers.**

8. As per the statement of the Appellant/ Claimant recorded before us on 03.01.2023 it is alleged that she is having a double storey Jhuggi No. A-266 and she has sought alternate allotment

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against ground floor of the Jhuggi No. A-266 but the EDC in its proceedings has wrongly recorded that as per the survey records the Jhuggi of the Appellant/ Claimant was found to exist on the upper floor. However, it is pertinent to point out that the survey records/videography produced before us shows that the Appellant/ Claimant is living on the ground floor and in fact she has claimed allotment against the ground floor and not against the first floor. But even if for the sake of arguments, it is taken to be gospel truth that the survey team, as mentioned by EDC, had found the upper floor Jhuggi of the Appellant/Claimant in existence at the time of survey then also it is of no consequence because as per our detailed discussion herein below it is found that the Appellant/Claimant fulfills the eligibility criteria for the ground as well as for the upper floor also as per the guideline policy issued by DDA. We shall now appraise the material placed on file in detail.

9. The statement of the Appellant/ Claimant has been recorded before us on 03.01.2023, wherein she has stated that she was married with Surender and having two sons, namely, Sunil & Anukul and one daughter, namely, Kalpana. All the children are married. Sunil was married with Urmila and having two children, namely, Sanjay & Suman. Sanjay is unmarried whereas Suman is married with Tapan and she is living in her matrimonial home in Ghaziabad. Anukul was married with Jharna and having two sons, namely, Ujjaval & Jai. Surender had died long ago whereas Sunil had expired about 13 years ago and Anukul had also expired about 10 years ago.

10. The Appellant/ Claimant has stated that she is having a double storey Jhuggi No. A-266. The Appellant/ Claimant along with Jharna widow of Anukul & her two children is living on the ground floor of the said Jhuggi bearing number A-266 whereas Urmila widow of Sunil along with her son Sanjay is living on the first floor of the said Jhuggi. The Appellant/ Claimant has sought allotment from DDA against the ground floor of the said double storey Jhuggi bearing No. A-266 but her claim has been wrongly rejected by DDA and aggrieved by the same she has filed the present Appeal for redressal. The Appellant/ Claimant has tendered documents, Annexure- A to Annexure L, and prayed that DDA be directed to make allotment in her favour.

11. DDA has furnished the survey records along with video clip, which pertains to the Jhuggi of the Appellant/Claimant. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 03.01.2023 wherein she has stated that in the video clips she is seen standing in her Jhuggi on the ground floor regarding which she has sought allotment from DDA. It is pointed out that in the survey records of DDA it is mentioned that the Jhuggi of the Appellant/Claimant was found to exist but it seems that due to some clerical/typographical mistake it has been mentioned in the proceedings before EDC that her Jhuggi was found to exist on the upper floor instead of on the ground floor. Thus the

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statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca double storey Jhuggi No. A-266 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/ Claimant with the family of her deceased son Anukul has been living on the ground floor, which was bearing Jhuggi No. A-266 whereas the family of her another deceased son Sunil has been living on the first floor of the said Jhuggi.

12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-266 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 and her family has been using the said Jhuggi for residential purposes as the Appellant/ Claimant with the family of her deceased son Anukul has been living on the ground floor whereas the family of her another deceased son Sunil has been living on the first floor of the said Jhuggi No. A-266. Therefore, both the floors have been occupied by the Appellant/ Claimant and her family for their 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 Voter ID Card & Ration 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) & of the year of survey.

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-L, 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.

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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."

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

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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 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 Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015.

21. The Appellant/Claimant has tendered her Voter ID Card (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-D), the Voter List of the year 2013 (Annexure-I), Voter List of the year

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2014 (Annexure-J), Voter List of the year 2015 (Annexure-K) and the Voter List of the year 2019 (Annexure-L).

22. It is pointed out that the Voter ID Card bearing number ARE 1454155 (Annexure-A) has been issued on 08.10.2010, much prior to the cut off date of 01.01.2015. Both the documents, Annexure- A & Annexure-B, have been issued on the address of Jhuggi No. A-266 regarding which the Appellant/Claimant has claimed allotment from DDA. It is also pointed out that the name of the present Appellant/Claimant Shubha Rani has been recorded at Sl. No. 14 in the Voter List of the year 2013 (Annexure-I), at Sl. No. 58 in the Voter List of the year 2014 (Annexure-J), at Sl. No. 75 in the Voter List of the year 2015 (Annexure-K) and at Sl. No. 125 in the Voter List of the year 2019 (Annexure-L). In all the Voter Lists, Annexure-I to Annexure-L, number of the Voter ID Card is mentioned to be ARE 1454155 and her address is recorded to be Jhuggi No. A-266. Thus we have no hesitation in holding that the Appellant/Claimant was having a valid Voter ID Card number ARE 1454155 (Annexure-A) on the cut off date of 01.01.2015 and further her name also 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 accordingly the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA.

23. The Appellant/ Claimant has also tendered Identity Card issued by Delhi Administration (Annexure-C), Electricity Bill (Annexure-G) and her Pass Book of Allahabad Bank (Annexure-H). The Identity Card (Annexure-C) has been issued on 08.07.1990, much prior to the cut off date of 01.01.2015. The Electricity Bill (Annexure-G) shows that the Appellant/ Claimant has taken the electricity connection on the address of Jhuggi No. A-266 on 20.06.2008, much prior to the cut off date of 01.01.2015. The bare perusal of Pass Book of Allahabad Bank (Annexure-H) shows that the Appellant/ Claimant has opened the account on the address of Jhuggi No. A-266 on 26.05.2000, much prior to the cut off date of 01.01.2015. This shows that all the three abovementioned documents, Annexure-C, Annexure-G & Annexure-H, have come into existence much prior to the cut off date of 01.01.2015 thereby showing that the Appellant/ Claimant & her family has been living since long and especially much prior to the cutoff date of 01.01.2015 in the Jhuggi No. A-266 regarding which the present Appellant/ claimant has claimed allotment from DDA. This further shows that the Appellant/Claimant is having required documents and she accordingly fulfills the eligibility criteria as per the guidelines issued by DDA.

24. The Appellant/ Claimant has also tendered her two Ration Cards (Annexure-E & Annexure-F). Both the Ration Cards have been issued in the name of Shubha Rani on the address of Jhuggi No. A-266 regarding which she is claiming allotment from DDA. The old Ration Card (Annexure-E) has been issued in the name of Shubha Rani (Appellant/ Claimant) on

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10.02.2009, much prior to the cut off date of 01.01.2015. The new Ration Card (Annexure-F) has also been issued in the name of Shubha Rani (Appellant/ Claimant) on 08.07.2014, much prior to the cut off date of 01.01.2015. 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. A-266 regarding which she has claimed allotment from DDA.

25. 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 her 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, she fulfills the eligibility criteria as per the guidelines issued by DDA.

26. 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 her claim. Hence the present appeal No. 68 of 2022 stands allowed, hereby, setting aside the impugned order bearing No. 385/58/0027.G/1127 dated 07.11.2022. DDA is hereby directed to make allotment in favour of Appellant/ Claimant, Shubha Rani W/o Surender Burman D/o Lalit, in respect of Jhuggi No. A-266 ~~Kathputli Colony~~ * Bhoomiheen Camp.

* corrected vide order dated 10.02.2023

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: 463 of 2023

Date of Institution: 30.11.2022

Date of Order: 01.02.2023

Present: Appellant/ Claimant Renu D/o Jai Bhagwan

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-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 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-244 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

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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. 385/58/0039.G/1132 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 463 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 25.01.2023. 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. A-244 was found to exist on the ground floor but she had failed to submit required documents, i.e., valid voter ID 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"** 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 Voter ID Card, on the cutoff date of 01.01.2015.

7. The statement of the Appellant/Claimant Renu has been recorded before us on 25.01.2023, wherein she has stated that her parents, Jai Bhagwan & Kavita, are having one

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son, namely, Davinder & one daughter, namely, Renu (Appellant/Claimant). Both the children are unmarried.

8. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. A-244 in the Bhoomiheen Camp and the entire family is jointly living in the said Jhuggi. The Appellant/Claimant has sought allotment in respect of Jhuggi No. A-244 but her claim has been wrongly rejected by DDA and aggrieved by the same she has filed the present Appeal for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-G, in support of her claim and prayed that DDA be directed to make alternative allotment in her favour as per the policy guidelines issued by DDA.

9. The Appellant/Claimant has categorically admitted that her date of birth is 11.08.1998 and in the Voter ID Card (Annexure-A) and Aadhar Card (Annexure-B) her date of birth is correctly recorded to be 11.08.1998. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that she was minor on the cut off date of 01.01.2015 and further she was living jointly with her parents and sharing a kitchen with them. The Appellant/Claimant has admitted that on the date of survey she was student and was not present in Bhoomiheen Camp as she had gone to Sonipat for studies. This shows that the Appellant/Claimant is not having any independent source of income and she is dependent on her parents. It is a matter of common observation that no prudent parents would allows their minor daughter to live separately & independently especially when she is a student and does not have independent source of income to support her. This accordingly shows that the Appellant/Claimant was not living separately & independently in Jhuggi No. A-244 but she was living jointly with her parents on the cutoff date of 01.01.2015.

10. DDA has furnished the survey records along with one video clip. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 25.01.2023 wherein she has stated that in the video clips her mother Kavita is seen in her Jhuggi on the ground floor and she is heard of making a statement that the survey has been conducted on behalf of her daughter, Renu. Thus the statement of the Appellant/Claimant as well as the survey records/video clip has duly proved that a double storey pucca No. A-244 of the family of the Appellant/Claimant was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 but the Appellant/Claimant was living jointly with her parents.

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11. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-244 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 said Jhuggi for residential purposes. The Appellant/Claimant was not living separately & independently in Jhuggi No. A-244 but she was living jointly with her parents on the cutoff date of 01.01.2015.

12. Now we shall 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.

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-G, in support of her 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

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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.
- 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

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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 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.

16. The Appellant/Claimant has tendered her Voter ID Card bearing number ARE 2609238 (Annexure-A) and Aadhar Card (Annexure-B). The Appellant/Claimant has categorically admitted that her date of birth is 11.08.1998. She has also further specifically stated that in the Voter ID Card (Annexure-A) and Aadhar Card (Annexure-B) her date of birth is correctly recorded to be 11.08.1998. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that she 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 she was less than 18 years of age on the cut off date of 01.01.2015.

17. The Appellant/Claimant has tendered her Voter ID Card No. ARE 2609238 (Annexure-A), which has been issued on 12.01.2023, much after the cut off date of 01.01.2015 and accordingly her name appearing in at least on 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 at all. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a valid Voter ID Card on the cut off date of 01.01.2015 and further 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. Hence, 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. ARE 1138338 (Annexure-C) of her father Jai Bhagwan and the Voter ID Card No. CXY 1068477 (Annexure-D) & Aadhar Card (Annexure-E) of her mother Kavita, Ration Card (Annexure-F) and Electricity Bill (Annexure-G). The Voter ID Cards, Annexure-C & Annexure-D, & Aadhar Card, Annexure-E, of her parents are not material to determine the eligibility of Appellant/Claimant. The Ration Card (Annexure-F) shows that it has been issued in the name of Kavita, who is the mother of the Appellant/ Claimant, on the address of A-244 and the names of the family

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members and that of the Appellant/ Claimant have been mentioned. The date of issue of the Ration Card is not mentioned. The Electricity Bill (Annexure-G) shows that the electricity connection was taken in the name of her father Jai Bhagwan on 19.06.2008. The documents, Annexure-C 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 the Appellant/ Claimant was minor on the cut off date of 01.01.2015 and she does not have Voter ID Card on the cut off date of 01.01.2015 and further 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.

19. 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 her favour as she was minor on the cut off date of 01.01.2015. The Voter ID Card No. ARE 2609238 (Annexure-A), which has been issued on 12.01.2023, much after the cut off date of 01.01.2015 and her name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. 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 less than 18 years of age on the cut off date of 01.01.2015 and further the Voter ID Card No. ARE 2609238 (Annexure-A), which has been issued on 12.01.2023, much after the cut off date of 01.01.2015 and her name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, we have no hesitation in holding that the Appellant/ Claimant 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 her claim. There is no infirmity and illegality in the impugned order bearing No. 385/58/0039.G/1132 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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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.

(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: 467 of 2023

Date of Institution: 30.11.2022

Date of Order: 01.02.2023

Present: Appellant/ Claimant Rahul S/o Om Parkash

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-343, 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-343 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

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rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/59/71.G/1196 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 467 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 28.12.2022. 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-343 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 **"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.

   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 Voter ID Card, on the cutoff date of 01.01.2015.

7. The statement of the Appellant/Claimant has been recorded before us on 27.01.2023, wherein he has stated that his parents, Om Parkash & Om Wati are having one son,

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namely, Rahul (Appellant/Claimant) and two daughters, namely, Anita & Geetu. Om Parkash had died in the year 1999 and Om Wati had died on 08.06.2020 and her death certificate is Annexure-F. Rahul is unmarried. Anita is married with Dilip and she is living in her matrimonial home in C. R. Park whereas Geetu is married with Ajit and she is living in her matrimonial home in Tughalakabad.

8. The Appellant/Claimant has stated that his family is having a single storey Jhuggi No. B-343 in the Bhoomiheen Camp. The Appellant/Claimant has also stated that he is living in the said Jhuggi No. B-343. The Appellant/Claimant has sought allotment in respect of Jhuggi No. B-343 but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-H, in support of his claim and prayed that DDA be directed to make alternative allotment in his favour as per the policy guidelines issued by DDA.

9. The Appellant/Claimant has categorically admitted that his date of birth is 29.09.1999. The Appellant/Claimant has stated that in his Voter ID Card (Annexure-A), Aadhar Card (Annexure-B) & Pan Card (Annexure-C) his date of birth is correctly recorded to be 29.09.1999. 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. The material placed on file shows that the Appellant/Claimant was living jointly with her parents and was not having any independent source of income on the cut off date of 01.01.2015. It is a matter of common observation that no prudent parents would allows their minor son to live separately & independently especially when he is not having independent source of income to support him. This accordingly shows that the Appellant/Claimant was not living separately & independently in Jhuggi No. B-343 but he was living jointly with her parents on the cutoff date of 01.01.2015.

10. DDA has furnished the survey records along with two video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 27.01.2023 wherein he has stated that in the video clips he is seen in his Jhuggi No. B-343. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca Jhuggi of the family of the Appellant/Claimant was in existence in

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the Bhoomiheen Camp on the cut off date of 01.01.2015 but the Appellant/Claimant was living jointly with his parents.

11. Accordingly, we have no hesitation in holding that the Jhuggi No. B-343 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 & his family has been using the said Jhuggi for residential purposes. The Appellant/Claimant was not living separately & independently in Jhuggi No. B-343 but he was living jointly with his parents on the cutoff date of 01.01.2015.

12. Now we shall 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.

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-H, 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**
> **<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 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.
- 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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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 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 and for the first floor he must have a separate ration card.

16. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 2560449 (Annexure-A), Aadhar Card (Annexure-B) and Pan Card (Annexure-C). The Appellant/Claimant has categorically admitted that his date of birth is 29.09.1999. He has also further specifically stated that in the Voter ID Card (Annexure-A), Aadhar Card (Annexure-B) and Pan Card (Annexure-C) his date of birth is correctly recorded to be 29.09.1999. 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.

17. The Appellant/Claimant has tendered his Voter ID Card No. ARE 2560449 (Annexure-A), which has been issued on 14.12.2021, much after the cut off date of 01.01.2015 and accordingly his name appearing in at least on 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 at all. We have no hesitation in holding that the Appellant/ Claimant was not having all the requisite documents, including Voter ID card, on the cutoff date of 01.01.2015 and his name does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. 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 (Annexure-D) & Aadhar Card (Annexure-E) of his mother Om Wati, Electricity Bill (Annexure-G) and Ration Card

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(Annexure-H). The Electricity Bill (Annexure-G) shows that the electricity connection has been taken in the name of his mother Om Wati on 21.06.2008 and Ration Card (Annexure-H) has been issued in the name of the Appellant/Claimant on 15.11.2014, just two months prior to the cutoff date of 01.01.2015. It is surprising that the Ration Card (Annexure-H) has been issued in favour of the Appellant/Claimant when he was minor and this creates doubt & suspicion. The Voter Id Card (Annexure-D) & Aadhar Card (Annexure-E) of his mother Om Wati is not relavant to determine the eligibility of Appellant/Claimant. The documents, Annexure-D, Annexure-E, Annexure-G and 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 the Appellant/ Claimant was minor on the cut off date of 01.01.2015 and he was not having Voter ID Card on the cut off date of 01.01.2015 and further 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.

19. The material placed on file shows that the Appellant/ Claimant was less than 18 years of age on the cut off date of 01.01.2015 and accordingly Voter ID Card could not have been issued in his favour as he was minor on the cut off date of 01.01.2015. The Voter ID Card No. ARE 2560449 (Annexure-A), has been issued on 14.12.2021, much after the cut off 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 less than 18 years of age on the cut off date of 01.01.2015 and accordingly he was not having a Voter ID Card on the cut off date of 01.01.2015 and further the Voter ID Card No. ARE 2560449 (Annexure-A), has been issued on 14.12.2021, much after the cut off date of 01.01.2015 and further his name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, we have no hesitation in holding that the Appellant/ Claimant 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.

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385/59/71.G/1196 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: 463 of 2023

Date of Institution: 30.11.2022

Date of Order: 01.02.2023

Present: Appellant/ Claimant Renu D/o Jai Bhagwan

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-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 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-244 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

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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. 385/58/0039.G/1132 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 463 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 25.01.2023. 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. A-244 was found to exist on the ground floor but she had failed to submit required documents, i.e., valid voter ID 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"** 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 Voter ID Card, on the cutoff date of 01.01.2015.

7. The statement of the Appellant/Claimant Renu has been recorded before us on 25.01.2023, wherein she has stated that her parents, Jai Bhagwan & Kavita, are having one

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son, namely, Davinder & one daughter, namely, Renu (Appellant/Claimant). Both the children are unmarried.

8. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. A-244 in the Bhoomiheen Camp and the entire family is jointly living in the said Jhuggi. The Appellant/Claimant has sought allotment in respect of Jhuggi No. A-244 but her claim has been wrongly rejected by DDA and aggrieved by the same she has filed the present Appeal for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-G, in support of her claim and prayed that DDA be directed to make alternative allotment in her favour as per the policy guidelines issued by DDA.

9. The Appellant/Claimant has categorically admitted that her date of birth is 11.08.1998 and in the Voter ID Card (Annexure-A) and Aadhar Card (Annexure-B) her date of birth is correctly recorded to be 11.08.1998. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that she was minor on the cut off date of 01.01.2015 and further she was living jointly with her parents and sharing a kitchen with them. The Appellant/Claimant has admitted that on the date of survey she was student and was not present in Bhoomiheen Camp as she had gone to Sonipat for studies. This shows that the Appellant/Claimant is not having any independent source of income and she is dependent on her parents. It is a matter of common observation that no prudent parents would allows their minor daughter to live separately & independently especially when she is a student and does not have independent source of income to support her. This accordingly shows that the Appellant/Claimant was not living separately & independently in Jhuggi No. A-244 but she was living jointly with her parents on the cutoff date of 01.01.2015.

10. DDA has furnished the survey records along with one video clip. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 25.01.2023 wherein she has stated that in the video clips her mother Kavita is seen in her Jhuggi on the ground floor and she is heard of making a statement that the survey has been conducted on behalf of her daughter, Renu. Thus the statement of the Appellant/Claimant as well as the survey records/video clip has duly proved that a double storey pucca No. A-244 of the family of the Appellant/Claimant was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 but the Appellant/Claimant was living jointly with her parents.

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11. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-244 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 said Jhuggi for residential purposes. The Appellant/Claimant was not living separately & independently in Jhuggi No. A-244 but she was living jointly with her parents on the cutoff date of 01.01.2015.

12. Now we shall 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.

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-G, in support of her 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

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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.
- 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

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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 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.

16. The Appellant/Claimant has tendered her Voter ID Card bearing number ARE 2609238 (Annexure-A) and Aadhar Card (Annexure-B). The Appellant/Claimant has categorically admitted that her date of birth is 11.08.1998. She has also further specifically stated that in the Voter ID Card (Annexure-A) and Aadhar Card (Annexure-B) her date of birth is correctly recorded to be 11.08.1998. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that she 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 she was less than 18 years of age on the cut off date of 01.01.2015.

17. The Appellant/Claimant has tendered her Voter ID Card No. ARE 2609238 (Annexure-A), which has been issued on 12.01.2023, much after the cut off date of 01.01.2015 and accordingly her name appearing in at least on 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 at all. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a valid Voter ID Card on the cut off date of 01.01.2015 and further 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. Hence, 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. ARE 1138338 (Annexure-C) of her father Jai Bhagwan and the Voter ID Card No. CXY 1068477 (Annexure-D) & Aadhar Card (Annexure-E) of her mother Kavita, Ration Card (Annexure-F) and Electricity Bill (Annexure-G). The Voter ID Cards, Annexure-C & Annexure-D, & Aadhar Card, Annexure-E, of her parents are not material to determine the eligibility of Appellant/Claimant. The Ration Card (Annexure-F) shows that it has been issued in the name of Kavita, who is the mother of the Appellant/ Claimant, on the address of A-244 and the names of the family

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members and that of the Appellant/ Claimant have been mentioned. The date of issue of the Ration Card is not mentioned. The Electricity Bill (Annexure-G) shows that the electricity connection was taken in the name of her father Jai Bhagwan on 19.06.2008. The documents, Annexure-C 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 the Appellant/ Claimant was minor on the cut off date of 01.01.2015 and she does not have Voter ID Card on the cut off date of 01.01.2015 and further 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.

19. 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 her favour as she was minor on the cut off date of 01.01.2015. The Voter ID Card No. ARE 2609238 (Annexure-A), which has been issued on 12.01.2023, much after the cut off date of 01.01.2015 and her name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. 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 less than 18 years of age on the cut off date of 01.01.2015 and further the Voter ID Card No. ARE 2609238 (Annexure-A), which has been issued on 12.01.2023, much after the cut off date of 01.01.2015 and her name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, we have no hesitation in holding that the Appellant/ Claimant 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 her claim. There is no infirmity and illegality in the impugned order bearing No. 385/58/0039.G/1132 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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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.

(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: 94 of 2022

Date of Institution: 21.11.2022

Date of Order: 02.02.2023

Present: Appellant/ Claimant Sangeeta widow of Ramesh D/o Feeran 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. B-60, 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-60 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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385/7/145.G/1658 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 94 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 04.01.2023. 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-60 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.

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 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.

7. Here it is pertinent to mention that the Appellant/ Claimant has sought alternate allotment under insitu Slum Redevelopment policy against Jhuggi No. B-60 as per policy guidelines

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issued by DDA. The survey was conducted of the said Jhuggi and the documents, i.e., Voter ID Card & Ration Card etc. furnished by the Appellant/ Claimant, were also verified and all the material including video clips were placed before EDC but it has rejected the claim of the present Appellant/ Claimant. The proceedings conducted by EDC have been placed before us thereby wherein it has recorded that as per survey record, the applicant's Jhuggi was found to exist on upper floor but it was found that the Appellant/Claimant was not having a separate Ration Card and hence she does not fulfill the eligibility criteria and accordingly the Appellant/Claimant was found ineligible for alternative allotment as per policy guidelines, Part-B **The eligibility criteria for allotment of alternative dwelling units for rehabilitation and relocation JJ dwellers.**

8. As per the statement of the Appellant/ Claimant recorded before us on 04.01.2023 it is alleged that her family is having a triple storey Jhuggi No. B -60 and it comprised of three rooms on the ground floor, three rooms on the first floor and one room on the second floor. The Appellant/Claimant has also stated that she along with her family is living in one of the three rooms on the ground floor of the said Jhuggi No. B-60 but her claim has been wrongly rejected by DDA. But the EDC in its proceedings has recorded that as per the survey records the Jhuggi of the Appellant/ Claimant was found to exist on the first floor. However, it is pertinent to point out that the survey records/videography produced before us shows that the Appellant/ Claimant is living on the ground floor and in fact she has claimed allotment against the ground floor and not against the first floor. But even if for the sake of arguments, it is taken to be gospel truth that the survey team, as mentioned by EDC, had found that the upper floor Jhuggi of the Appellant/Claimant was in existence at the time of survey then also it is of no consequence because as per our detailed discussion herein below it is found that the Appellant/Claimant does not fulfills the eligibility criteria for the ground floor as well as for the upper floor also, as per the guideline policy issued by DDA. We shall now appraise the material placed on file in detail.

9. The Appellant/Claimant has stated that her in-laws, Babu Lal & Bhagwati, are having six sons, namely, Kishan, Ramesh, Bhikam Pal, Dal Chand, Balkishan & Kamal and one daughter, namely, Rekha. All the children are married. Kishan is married with Lajwati and having four children, namely, Sangeeta, Rahul, Rohit & Ritik. Bhikam Pal is married with Anita and having four children, namely, Monica, Poonam, Lucky & Harsh. Dalchand is

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married with Suman and having two children, namely, Kanhaiya & Bharat. Balkishan is married with Bimlesh and having one son namely, Atharv. Kamal is married with Sangeeta (other than the present Appellant/Claimant) and having one son, namely, Keshav. Rekha is married with Rajbir and living in her matrimonial home in village Jaitpur. Ramesh was married with Sangeeta (Appellant/Claimant) and having two children, namely, Sanju & Hari Om. Ramesh has died on 27.10.2014 and his death certificate is Annexure-E.

10. The Appellant/Claimant has stated that her family is having a triple storey Jhuggi No. B -60 and it comprised of three rooms on the ground floor, three rooms on the first floor and one room on the second floor. In the first room on the ground floor of the said Jhuggi No. B-60 her in-laws, Babu Lal & Bhagwati, are living and regarding that DDA has made allotment in favour of Bhagwati. Whereas in the second room on the ground floor of the said Jhuggi No. B-60 Kishan along with his wife Lajwanti & children, namely, Sangeeta, Rahul, Rohit & Ritik, are living and regarding that DDA has made allotment in favour of Lajwanti. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that in the first room on the first floor of the said Jhuggi No. B-60 Bhikam pal along with his wife Anita & children are living but the claim of Anita for allotment has been rejected by DDA and aggrieved by the same Anita has filed an Appeal No. 95 of 2022 before the Appellate Authority. Whereas in the second room on the first floor of the said Jhuggi No. B-60 Kamal along with his wife Sangeeta & children are living but the claim of Kamal for allotment has been rejected by DDA and aggrieved by the same Kamal has filed an Appeal No. 96 of 2022 before the Appellate Authority. The Appellant/Claimant has also stated that in the third room on the first floor of the said Jhuggi No. B-60 Dal Chand along with his wife Suman & children are living but the claim of Suman for allotment has been rejected by DDA and aggrieved by the same Suman has filed an Appeal No. 97 of 2022 before the Appellate Authority. The Appellant/Claimant has stated that in the room on the second floor of the said Jhuggi No. B-60 Balkishan along with his wife Bimlesh & children are living but he has not filed any claim for allotment before DDA authority. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that she along with her sons, Sanju & Hariom is living in the third room on the ground floor of the said Jhuggi No. B-60. The Appellant/Claimant has

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sought allotment from DDA against the ground floor of the said Jhuggi No. B-60 but her claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-E, in support of her claim and prayed that DDA be directed to make alternative allotment in his favour as per the policy guidelines issued by DDA.

13. The material placed on file shows that six members of the family of the present Appellant/Claimant have sought allotment from DDA. Out of which two allotments have been made by DDA in favour of Bhagwati W/o Babu Lal and Lajwanti W/o Kishan. But four other claims made by Sangeeta W/o Ramesh, Anita W/o Bikham Pal, Kamal S/o Babu Lal and Suman W/o Dal Chand have been rejected by EDC and aggrieved by the same Sangeeta W/o Ramesh has filed Appeal No. 94 of 2002, Anita W/o Bikham Pal has filed Appeal No. 95 of 2002, Kamal S/o Babu Lal has filed Appeal No. 96 of 2002 and Suman W/o Dal Chand has filed Appeal No. 97 of 2002. It is pertinent to point out that the above mentioned four appeals shall be decided separately on their respective merit.

14. DDA has furnished the survey records along with seventeen video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 04.01.2023 wherein she has stated that in five video clips Sangeeta (Appellant/Claimant) is seen in her Jhuggi on the ground floor; in six video clips Anita is seen in her Jhuggi on the first floor; in four video clips Kamal is seen standing in his room on the first floor and further in two video clips Suman is seen standing in Jhuggi on the first floor. However, the video of Jhuggi on the second floor was not made by the survey team because there was no claimant for that Jhuggi. But there is nothing to disbelieve the statement of the Appellant/Claimant that the Jhuggi No. B-60 was triple storey structure especially when the video clips shows that the Jhuggi No. B-60 comprised of three rooms on the ground floor and three rooms on the first floor. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca triple storey Jhuggi of the family of the Appellant/Claimant bearing Jhuggi No. B-60 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and it comprised of three rooms (occupied by the respective families of Bhagwati, Lajwati & Sangeeta) on the ground floor, three rooms (occupied by the respective families of Anita, Kamal & Suman) on the first floor and one room on the second floor (occupied by the family of Balkishan)

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and accordingly all the three rooms on the ground floor of the said Jhuggi No. B-60 were separate dwelling units and one of the rooms on the ground floor is used by the Appellant/ Claimant & her family for their residential purposes.

15. Accordingly, we have no hesitation in holding that the Jhuggi No. B-60 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 & her family have been using one of the three rooms on the ground floor of the said Jhuggi No. B-60, which is a separate dwelling unit, for residential purposes.

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 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.

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

18. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a Voter Id Card & separate Ration Card on the cut off date of 01.01.2015 and further her name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey. 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. 385/7/145.G/1658 dated 07.11.2022.

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

"Part-B

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

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

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

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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

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. 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 & 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.

25. The Appellant/Claimant has tendered her Voter ID Cards bearing number ARE 1471993 (Annexure-A), Aadhar Card (Annexure-B) and Pan Card (Annexure-C).

26. The Appellant/Claimant has tendered her Voter ID Card bearing number ARE 1471993 (Annexure-A), which has been issued on 05.08.2015, much after the cut off date of 01.01.2015. Accordingly, the question of his name appearing in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015), does not arise at all. The Appellant/Claimant has also not tendered the Voter List on file to show that she had casted her vote in the year of survey. Therefore, we have no hesitation in holding that the

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Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and further 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, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

27. The Appellant/Claimant has admitted that she is not having a separate Ration Card on the address of first floor of the Jhuggi No. B-60 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 mandatory for the upper floor.

28. The Appellant/Claimant has tendered her Pass Book of Bank of India (Annexure-D), which shows that she had opened the account on 03.05.2019, much after the cut off date of 01.01.2015. This document (Annexure-D) is of no help to the present Appellant/Claimant because as per our discussion above she was not having a Voter ID Card & separate Ration Card on the cut off 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.

29. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card & Ration Card on the cut off date of 01.01.2015 and 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. 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. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and 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. Therefore, 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

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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. 385/7/145.G/1658 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.

2-2-2023

(RANBIR SINGH)

Jt. Secretary (Retd.) GOI

MEMBER

2/2/2023

(SATISH AHLAWAT)

Addl. District & Sessions Judge (Retd.)

CHAIRMAN

02/2/23

(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: 95 of 2022

Date of Institution: 21.11.2022

Date of Order: 02.02.2023

Present: Appellant/ Claimant Anita W/o Bhikam Lal D/o Hari 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. B-60, 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-60 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. 385/7/147.1/1659 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 95 of 2022 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 04.01.2023. 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 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-60 was found to exist on the upper floor but she had failed to submit required documents, i.e., separate 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.

   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 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.

7. The Appellant/Claimant has stated that her in-laws, Babu Lal & Bhagwati, are having six sons, namely, Kishan, Ramesh, Bhikam Pal, Dal Chand, Balkishan & Kamal and one daughter, namely, Rekha. All the children are married. Kishan is married with Lajwati and having four children, namely, Sangeeta, Rahul, Rohit & Ritik. Balkishan is married with Bimlesh and having one son namely, Atharv. Rekha is married with Rajbir and living in her matrimonial home in village Jaitpur. Ramesh was married with Sangeeta

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and having two children, namely, Sanju & Hari Om. Kamal is married with Sangeeta and having one son, namely, Keshav. Dalchand is married with Suman and having two children, namely, Kanhaiya & Bharat. Bhikam Pal is married with Anita (Appellant/Claimant) and having four children, namely, Monica, Poonam, Lucky & Harsh.

8. The Appellant/Claimant has stated that her family is having a triple storey Jhuggi No. B -60 and it comprised of three rooms on the ground floor, three rooms on the first floor and one room on the second floor. In the first room on the ground floor of the said Jhuggi No. B-60 her in-laws, Babu Lal & Bhagwati, are living and regarding that DDA has made allotment in favour of Bhagwati. Whereas in the second room on the ground floor of the said Jhuggi No. B-60 Kishan along with his wife Lajwanti & children, namely, Sangeeta, Rahul, Rohit & Ritik, are living and regarding that DDA has made allotment in favour of Lajwanti. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that in the third room on the ground floor of the said Jhuggi No. B-60 Sangeeta widow of Ramesh along with her sons, Sanju & Hariom are living but the claim of Sangeeta for allotment has been rejected by DDA and aggrieved by the same Sangeeta has filed an Appeal No. 94 of 2022 before the Appellate Authority. Whereas in the first room on the first floor of the said Jhuggi No. B-60 Dal Chand along with his wife Suman & children are living but the claim of Sunita for allotment has been rejected by DDA and aggrieved by the same Sunita has filed an Appeal No. 97 of 2022 before the Appellate Authority. The Appellant/Claimant has also stated that in the second room on the first floor of the said Jhuggi No. B-60 Kamal along with his wife Sangeeta & son, Keshav, is living but the claim of Kamal for allotment has been rejected by DDA and aggrieved by the same Kamal has filed an Appeal No. 96 of 2022 before the Appellate Authority. The Appellant/Claimant has stated that in the room on the second floor of the said Jhuggi No. B-60 Balkishan along with his wife Bimlesh & children are living but he has not filed any claim for allotment before DDA authority. These facts are not disputed by DDA.

10. The Appellant/Claimant has also stated that she along with her husband Bhikam Pal & children, namely, Monica, Poonam, Lucky & Harsh, is living in the third room on the first floor of the said Jhuggi No. B-60. The Appellant/Claimant has sought allotment

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from DDA against the first floor of the said Jhuggi No. B-60 but her claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal No. 95 of 2022 for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-I, in support of his claim and prayed that DDA be directed to make alternative allotment in her favour as per the policy guidelines issued by DDA.

11. The material placed on file shows that six members of the family of the present Appellant/Claimant have sought allotment from DDA. Out of which two allotments have been made by DDA in favour of Bhagwati W/o Babu Lal and Lajwanti W/o Kishan. But four other claims made by Sangeeta W/o Ramesh, Anita W/o Bikham Pal, Kamal S/o Babu Lal and Suman W/o Dal Chand have been rejected by EDC and aggrieved by the same Sangeeta W/o Ramesh has filed Appeal No. 94 of 2002, Anita W/o Bikham Pal has filed Appeal No. 95 of 2002, Kamal S/o Babu Lal has filed Appeal No. 96 of 2002 and Suman W/o Dal Chand has filed Appeal No. 97 of 2002. It is pertinent to point out that the above mentioned four appeals shall be decided separately on their respective merit.

12. DDA has furnished the survey records along with seventeen video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 04.01.2023 wherein she has stated that in five video clips Sangeeta is seen in her Jhuggi on the ground floor; in six video clips Anita (Appellant/Claimant) is seen in her Jhuggi on the first floor; in four video clips Kamal is seen standing in his room on the first floor and further in two video clips Suman is seen standing in Jhuggi on the first floor. However, the video of Jhuggi on the second floor was not made by the survey team because there was no claimant for that Jhuggi. But there is nothing to disbelieve the statement of the Appellant/Claimant that the Jhuggi was triple storey structure especially when the video clips shows that the Jhuggi No. B-60 comprised of three rooms on the ground floor and three rooms on the first floor. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca triple storey Jhuggi of the family of the Appellant/Claimant bearing Jhuggi No. B-60 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and it comprised of three rooms (occupied by the respective families of Bhagwati, Lajwati & Sangeeta) on the ground floor, three rooms (occupied by the respective families of Anita, Kamal & Suman) on the first floor and one room on the second floor (occupied

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by the family of Balkishan) and accordingly all the three rooms on the first floor of the said Jhuggi No. B-60 were separate dwelling units and one of the rooms on the first floor is used by the Appellant/ Claimant & her family for their residential purposes.

13. Accordingly, we have no hesitation in holding that the Jhuggi No. B-60 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 & her family has been using one of the three rooms on the first floor of the said Jhuggi No. B-60, which is a separate dwelling unit, 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.

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 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 Voter ID Card & a separate Ration Card on the cut off 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). 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. 385/7/147.1/1659 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 a 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.

23. The Appellant/Claimant has tendered her Voter ID Cards bearing number ARE 1144187 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), and Voter List of the year 2019 (Annexure-I).

24. The Appellant/Claimant has tendered her Voter ID Card bearing number ARE 1144187 (Annexure-A), which has been issued on 17.01.2018, much after the cut off date of 01.01.2015 and further the question of her name appearing in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) does not arise. The

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name of the Appellant/Claimant appears at Sl. No. 156 in the Voter List of the year 2019 (Annexure-I) but the fact remains that the name of the Appellant/ Claimant does not appear in at least on 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 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). 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 is not having a separate Ration Card on the address of first floor of the Jhuggi No. B-60 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 mandatory for the upper floor.

26. The Appellant/Claimant has tendered the Voter ID Card No. CXY 1098938 (Annexure-E), Aadhar Card (Annexure-F) & Pan Card (Annexure-G) of her husband Bhikam Pal and also the Pass Book of PNB (Annexure-D) & the Electricity Bill (Annexure-H). The Voter ID Card bearing number CXY 1098938 (Annexure-E)) has been issued on 17.01.2018, much after the cut off date of 01.01.2015. Thus neither the Appellant/Claimant (Anita) nor her husband (Bhikam Pal) was having Voter ID Cards on the cut off date of 01.01.2015.

The Pass Book of PNB (Annexure-D) shows that the Appellant/Claimant had opened the account on 28.03.2011. Further, the Electricity Bill (Annexure-H) shows that the electricity connection has been taken by the Appellant/Claimant (Anita) on 25.09.2017, much after the cut off date of 01.01.2015. The documents, Annexure-D to Annexure-H, are of no help to the present Appellant/Claimant because as per our discussion above she was not having a Voter ID Card & a separate Ration Card on the cut off 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).

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27. 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 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). 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 Appellant/ Claimant was not having the requisite mandatory documents, i.e., 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). Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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. 385/7/147.1-/1659 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: 96 of 2022

Date of Institution: 21.11.2022

Date of Order: 02.02.2023

Present: Appellant/ Claimant Kamal S/o Babu 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-60, 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-60 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. 385/7/148.1/1660 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 96 of 2022 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 04.01.2023. 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-60 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.

   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 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.

7. The Appellant/Claimant has stated that his parents, Babu Lal & Bhagwati, are having six sons, namely, Kishan, Ramesh, Bhikam Pal, Dal Chand, Balkishan & Kamal (Appellant/Claimant) and one daughter, namely, Rekha. All the children are married. Kishan is married with Lajwati and having four children, namely, Sangeeta, Rahul, Rohit & Ritik. Bhikam Pal is married with Anita and having four children, namely, Monica, Poonam, Lucky & Harsh. Dalchand is married with Suman and having two

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children, namely, Kanhaiya & Bharat. Balkishan is married with Bimlesh and having one son namely, Atharv. Rekha is married with Rajbir and living in her matrimonial home in village Jaitpur. Ramesh was married with Sangeeta and having two children, namely, Sanju & Hari Om. Kamal (Appellant/Claimant) is married with Sangeeta and having one son, namely, Keshav.

8. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi No. B -60 and it comprised of three rooms on the ground floor, three rooms on the first floor and one room on the second floor. In the first room on the ground floor of the said Jhuggi No. B-60 his parents, Babu Lal & Bhagwati, are living and regarding that DDA has made allotment in favour of Bhagwati. Whereas in the second room on the ground floor of the said Jhuggi No. B-60 Kishan along with his wife Lajwanti & children, namely, Sangeeta, Rahul, Rohit & Ritik, are living and regarding that DDA has made allotment in favour of Lajwanti. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that in the third room on the ground floor of the said Jhuggi No. B-60 Sangeeta widow of Ramesh along with her sons, Sanju & Hariom are living but the claim of Sangeeta for allotment has been rejected by DDA and aggrieved by the same Sangeeta has filed an Appeal No. 94 of 2022 before the Appellate Authority. Whereas in the first room on the first floor of the said Jhuggi No. B-60 Bhikam pal along with his wife Anita & children are living but the claim of Anita for allotment has been rejected by DDA and aggrieved by the same Anita has filed an Appeal No. 95 of 2022 before the Appellate Authority. The Appellant/Claimant has also stated that in the second room on the first floor of the said Jhuggi No. B-60 Dal Chand along with his wife Suman & children are living but the claim of Suman for allotment has been rejected by DDA and aggrieved by the same Suman has filed an Appeal No. 97 of 2022 before the Appellate Authority. The Appellant/Claimant has stated that in the room on the second floor of the said Jhuggi No. B-60 Balkishan along with his wife Bimlesh & children are living but he has not filed any claim for allotment before DDA authority. These facts are not disputed by DDA.

10. The Appellant/Claimant has also stated that he along with his wife Sangeeta & son, Keshav, is living in the third room on the first floor of the said Jhuggi No. B-60. The Appellant/Claimant has sought allotment from DDA against the first floor of the said

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Jhuggi No. B-60 but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal No. 96 of 2022 for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-F, in support of his claim and prayed that DDA be directed to make alternative allotment in his favour as per the policy guidelines issued by DDA.

11. The material placed on file shows that six members of the family of the present Appellant/Claimant have sought allotment from DDA. Out of which two allotments have been made by DDA in favour of Bhagwati W/o Babu Lal and Lajwanti W/o Kishan. But four other claims made by Sangeeta W/o Ramesh, Anita W/o Bikham Pal, Kamal S/o Babu Lal and Suman W/o Dal Chand have been rejected by EDC and aggrieved by the same Sangeeta W/o Ramesh has filed Appeal No. 94 of 2002, Anita W/o Bikham Pal has filed Appeal No. 95 of 2002, Kamal S/o Babu Lal has filed Appeal No. 96 of 2002 and Suman W/o Dal Chand has filed Appeal No. 97 of 2002. It is pertinent to point out that the above mentioned four appeals shall be decided separately on their respective merit.

12. DDA has furnished the survey records along with seventeen video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 04.01.2023 wherein he has stated that in five video clips Sangeeta is seen in her Jhuggi on the ground floor; in six video clips Anita is seen in her Jhuggi on the first floor; in four video clips Kamal (Appellant/Claimant) is seen standing in his room on the first floor and further in two video clips Suman is seen standing in Jhuggi on the first floor. However, the video of Jhuggi on the second floor was not made by the survey team because there was no claimant for that Jhuggi. But there is nothing to disbelieve the statement of the Appellant/Claimant that the Jhuggi was triple storey structure especially when the video clips shows that the Jhuggi No. B-60 comprised of three rooms on the ground floor and three rooms on the first floor. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca triple storey Jhuggi of the family of the Appellant/Claimant bearing Jhuggi No. B-60 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and it comprised of three rooms (occupied by the respective families of Bhagwati, Lajwati & Sangeeta) on the ground floor, three rooms (occupied by the respective families of Anita, Kamal & Suman) on the first floor and one room on the second floor

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(occupied by the family of Balkishan) and accordingly all the three rooms on the first floor of the said Jhuggi No. B-60 were separate dwelling units and one of the rooms on the first floor is used by the Appellant/ Claimant & his family for their residential purposes.

13. Accordingly, we have no hesitation in holding that the Jhuggi No. B-60 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 has been using one of the three rooms on the first floor of the said Jhuggi No. B-60, which is a separate dwelling unit, 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.

15. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-F, in support of his claim and prayed that DDA be directed to make allotment in 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 01.01.2015 as his name appears in the joint Ration Card of his mother, Bhagwati 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. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Accordingly, there is no

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illegality in the impugned rejection order bearing No. 385/7/148.1/1660 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.

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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 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 & 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.

23. The Appellant/Claimant has tendered his Voter ID Cards bearing number ARE 1769214 (Annexure-A), Aadhar Card (Annexure-B) and Pan Card (Annexure-C).

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24. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1769214 (Annexure-A), which has been issued on 10.09.2013, much prior to the cut off date of 01.01.2015. But the Appellant/Claimant has not tendered the Voter Lists on file to show that he had casted his vote in the year's 2013, 2014 and 2015 (prior to 01-01-2015) & 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 there is no material to show that 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. Accordingly, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

25. The Appellant/Claimant has admitted that he is not having a separate Ration Card on the address of first floor of the Jhuggi No. B-60 regarding which he is claiming allotment from DDA. He has tendered the joint Ration Card (Annexure-F) issued on 21.04.2014 in the name of his mother Bhagwati in which the names of the family members, including that of the present Appellant/Claimant, have been recorded. But the fact remains that the Appellant/Claimant is not having a separate Ration Card on the address of first floor of the Jhuggi No. B-60 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 mandatory for the upper floor.

26. The Appellant/Claimant has tendered the Voter ID Card No. ARE 2243354 (Annexure-D) & Aadhar Card (Annexure-E) of his wife Sangeeta. The Voter ID Card bearing number ARE 2243354 (Annexure-D) has been issued on 28.04.2022, much after the cut off date of 01.01.2015. This documents, Annexure-D & Annexure-E, are of no help to the present Appellant/Claimant because as per our discussion above he was not having a separate Ration 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.

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 and his name also does not

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

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. 385/7/148.1/1660 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: 97 of 2022

Date of Institution: 21.11.2022

Date of Order: 02.02.2023

Present: Appellant/ Claimant Suman W/o Dal Chand D/o Khachedu

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-60, 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-60 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. 385/7/149.1-A/1661 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 97 of 2022 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 04.01.2023. 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 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-60 was found to exist on the upper floor but she had failed to submit required documents, i.e., separate 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.

   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 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.

7. The Appellant/Claimant has stated that her in-laws, Babu Lal & Bhagwati, are having six sons, namely, Kishan, Ramesh, Bhikam Pal, Dal Chand, Balkishan & Kamal and one daughter, namely, Rekha. All the children are married. Kishan is married with Lajwati and having four children, namely, Sangeeta, Rahul, Rohit & Ritik. Bhikam Pal is married with Anita and having four children, namely, Monica, Poonam, Lucky & Harsh. Balkishan is married with Bimlesh and having one son namely, Atharv. Rekha is

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married with Rajbir and living in her matrimonial home in village Jaitpur. Ramesh was married with Sangeeta and having two children, namely, Sanju & Hari Om. Kamal is married with Sangeeta and having one son, namely, Keshav. Dalchand is married with Suman (Appellant/Claimant) and having two children, namely, Kanhaiya & Bharat.

8. The Appellant/Claimant has stated that her family is having a triple storey Jhuggi No. B -60 and it comprised of three rooms on the ground floor, three rooms on the first floor and one room on the second floor. In the first room on the ground floor of the said Jhuggi No. B-60 her in-laws, Babu Lal & Bhagwati, are living and regarding that DDA has made allotment in favour of Bhagwati. Whereas in the second room on the ground floor of the said Jhuggi No. B-60 Kishan along with his wife Lajwanti & children, namely, Sangeeta, Rahul, Rohit & Ritik, are living and regarding that DDA has made allotment in favour of Lajwanti. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that in the third room on the ground floor of the said Jhuggi No. B-60 Sangeeta widow of Ramesh along with her sons, Sanju & Hariom are living but the claim of Sangeeta for allotment has been rejected by DDA and aggrieved by the same Sangeeta has filed an Appeal No. 94 of 2022 before the Appellate Authority. Whereas in the first room on the first floor of the said Jhuggi No. B-60 Bhikam pal along with his wife Anita & children are living but the claim of Anita for allotment has been rejected by DDA and aggrieved by the same Anita has filed an Appeal No. 95 of 2022 before the Appellate Authority. The Appellant/Claimant has also stated that in the second room on the first floor of the said Jhuggi No. B-60 Kamal along with his wife Sangeeta & son, Keshav, is living but the claim of Kamal for allotment has been rejected by DDA and aggrieved by the same Kamal has filed an Appeal No. 96 of 2022 before the Appellate Authority. The Appellant/Claimant has stated that in the room on the second floor of the said Jhuggi No. B-60 Balkishan along with his wife Bimlesh & children are living but he has not filed any claim for allotment before DDA authority. These facts are not disputed by DDA.

10. The Appellant/Claimant has also stated that she along with her husband Dal Chand & sons, Kanhaiya & Bharat, is living in the third room on the first floor of the said Jhuggi No. B-60. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. B-60 but her claim has been wrongly rejected by DDA and

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aggrieved by the same he has filed the present Appeal No. 97 of 2022 for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-I, in support of his claim and prayed that DDA be directed to make alternative allotment in her favour as per the policy guidelines issued by DDA.

11. The material placed on file shows that six members of the family of the present Appellant/Claimant have sought allotment from DDA. Out of which two allotments have been made by DDA in favour of Bhagwati W/o Babu Lal and Lajwanti W/o Kishan. But four other claims made by Sangeeta W/o Ramesh, Anita W/o Bikham Pal, Kamal S/o Babu Lal and Suman W/o Dal Chand have been rejected by EDC and aggrieved by the same Sangeeta W/o Ramesh has filed Appeal No. 94 of 2002, Anita W/o Bikham Pal has filed Appeal No. 95 of 2002, Kamal S/o Babu Lal has filed Appeal No. 96 of 2002 and Suman W/o Dal Chand has filed Appeal No. 97 of 2002. It is pertinent to point out that the above mentioned four appeals shall be decided separately on their respective merit.

12. DDA has furnished the survey records along with seventeen video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 04.01.2023 wherein she has stated that in five video clips Sangeeta is seen in her Jhuggi on the ground floor; in six video clips Anita is seen in her Jhuggi on the first floor; in four video clips Kamal is seen standing in his room on the first floor and further in two video clips Suman (Appellant/Claimant) is seen standing in Jhuggi on the first floor. However, the video of Jhuggi on the second floor was not made by the survey team because there was no claimant for that Jhuggi. But there is nothing to disbelieve the statement of the Appellant/Claimant that the Jhuggi was triple storey structure especially when the video clips shows that the Jhuggi No. B-60 comprised of three rooms on the ground floor and three rooms on the first floor. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca triple storey Jhuggi of the family of the Appellant/Claimant bearing Jhuggi No. B-60 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and it comprised of three rooms (occupied by the respective families of Bhagwati, Lajwati & Sangeeta) on the ground floor, three rooms (occupied by the respective families of Anita, Kamal & Suman) on the first floor and one room on the second floor (occupied by the family of Balkishan) and accordingly all the three rooms on the first

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floor of the said Jhuggi No. B-60 were separate dwelling units and one of the rooms on the first floor is used by the Appellant/ Claimant & her family for their residential purposes.

13. Accordingly, we have no hesitation in holding that the Jhuggi No. B-60 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 & her family has been using one of the three rooms on the first floor of the said Jhuggi No. B-60, which is a separate dwelling unit, 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.

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 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. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/7/149.1-A/1661 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.

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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 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 & 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.

23. The Appellant/Claimant has tendered her Voter ID Cards bearing number ARE 1144179 (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).

24. The Appellant/Claimant has tendered her Voter ID Card bearing number ARE 1144179 (Annexure-A), which 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. 207 in the Voter List of the year 2013 (Annexure-H) and at Sl. No. 155 in the Voter List of the year 2019

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(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 at least 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. The Appellant/Claimant has admitted that she is not having a separate Ration Card on the address of first floor of the Jhuggi No. B-60 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 mandatory for the upper floor.

26. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1144153 (Annexure-D), Aadhar Card (Annexure-E) & Pan Card (Annexure-F) of her husband Dal Chand and also Electricity Bill (Annexure-G). The Voter ID Card bearing number ARE 1144153 (Annexure-D) has been issued on 27.10.2008. It is pertinent to point out that in the Voter ID Card (Annexure-D), the name of Dal Chand is mentioned to be Lal Chand and not Dal Chand. Furthermore, the Electricity Bill (Annexure-G) shows that his mother Bhagwati on her Jhuggi on the ground floor has taken the electricity connection on 09.06.2008. The fact remains that the Appellant/Claimant was not having electricity connection on the address of his Jhuggi on the first floor bearing No. B-60. The documents, Annexure-D to Annexure-G, are of no help to the present Appellant/Claimant because as per our discussion above she was not having a separate Ration Card on the cut off date of 01.01.2015.

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. 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 Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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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. 385/7/149.1-A/1661 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: 52 of 2022

Date of Institution: 21.11.2022

Date of Order: 07.02.2023

Present: Appellant/ Claimant Savitri W/o Rama Nand D/o Vinod

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-344, 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-344 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. 385/26/163.G/899 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by

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the same, the present Appeal No. 52 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 27.01.2023. 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-344 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 ID 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 appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

7. The statement of the Appellant/ Claimant, Savitri, has been recorded before us on 27.01.2023, wherein she has stated that her parents, Vinod & Gita, are having one son, namely, Deepak and five daughters, namely, Savitri (Appellant/Claimant), Jyoti, Anjali,

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Neha & Pallavi. All except Deepak & Pallavi are married. Savitri is married with Ramanand. Jyoti is married with Anup and she is living in her matrimonial home in Ayodhya. Anjali is married with Rahul and she is living in her matrimonial home in Ambedkar Nagar, Uttar Pradesh. Neha is married with Ajay and she is living in her matrimonial home in Govind Puri.

8. The Appellant/ Claimant has stated that her parents, Vinod & Gita, along with their unmarried children, Deepak & Pallavi, are living in the single storey Jhuggi No. B-345 and regarding that DDA had made allotment in favour of her mother, Gita. These facts are not disputed by DDA.

9. The Appellant/ Claimant has stated that she is having a single storey Jhuggi No. B-344, which is adjoining to the Jhuggi No. B-345 of her parents. The Appellant/ Claimant along with her husband Ramanand is living in the said Jhuggi No. B-344. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi but her claim has been wrongly rejected by DDA and aggrieved by the same she has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure H, and prayed that DDA be directed to make allotment in her favour.

10. DDA has furnished the survey records along with two video clips. These video clips were played before the Appellant/Claimant when her statement was recorded before us on 27.01.2023 wherein she has stated that in two video clips her mother Gita is seen in her Jhuggi No. B-345 whereas in other two video clips she (Savitri-Appellant/Claimant) is seen standing in the Jhuggi No. B-344. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca single storey Jhuggi of the Appellant/Claimant was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/ Claimant used the said Jhuggi No. B-344 for residential purposes.

11. Accordingly, we have no hesitation in holding that the Jhuggi 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 & her family have been using the said Jhuggi No B-344 for residential purposes.

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12. Now we shall 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.

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-H, 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

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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."

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 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.

17. The Appellant/Claimant has tendered her Voter ID Card bearing number ARE 2609022 (Annexure-A), Aadhar Card (Annexure-B) and Pan Card (Annexure-C).

18. The Appellant/Claimant has tendered her Voter ID Card bearing number ARE 2609022 (Annexure-A), which has been issued on 06.01.2023, much after the cutoff date of 01.01.2015. Accordingly, the question of her name appearing in at least on 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 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 at least 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, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

19. The Appellant/Claimant has tendered the Voter ID Card No. ARE 2609014 (Annexure-D), Aadhar Card (Annexure-E) and Pan Card (Annexure-F) of her husband Ramanand. The Voter ID Card (Annexure-D) bearing No. ARE 2609014 has been issued on 06.01.2023, much after the cutoff date of 01.01.2015. This shows that neither the Appellant/Claimant nor her husband was having Voter ID Cards on the cut off date of 01.01.2015.

20. The Appellant/Claimant has tendered her Electricity Bill (Annexure-G) and Ration Card (Annexure-H). The Electricity Bill (Annexure-G) shows that the electricity connection has been issued in the name of the present Appellant/Claimant on 01.10.2022, much after the cutoff date of 01.01.2015. The Ration Card (Annexure-H) has been issued in the name of the present Appellant/Claimant on 23.09.2019, much after the cutoff date of 01.01.2015. The material placed on file shows that the Appellant/ Claimant is not having a Voter ID Card, on the cut off date of 01.01.2015 and her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the

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year of survey and accordingly merely tendering the documents, Annexure- D 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.

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 as her Voter ID Card bearing number ARE 2609022 (Annexure-A), has been issued on 06.01.2023, much after 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. 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. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a valid Voter ID Card, on the cutoff date of 01.01.2015 and her further 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, she 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 her claim. There is no infirmity and illegality in the impugned order bearing No. 385/26/163.G/899 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: 450 of 2023

Date of Institution: 30.11.2022

Date of Order: 07.02.2023

Present: Appellant/ Claimant Kalpana W/o Sunil Kumar D/o Santosh Halder

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-603, 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-603 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

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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. 385/14/25.G/739 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 450 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 24.01.2023. 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-603 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 ID 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.

7. The statement of the Appellant/ Claimant, Kalpana, has been recorded before us on 24.01.2023, wherein she has stated that she is married with Sunil Kumar and they are

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having two sons, namely, Karan & Vishal. Both the sons Karan & Vishal are unmarried. Sunil Kumar had expired on 28.06.2015 and his death certificate is Annexure-A.

8. The Appellant/ Claimant has stated that she along with her sons Karan & Vishal is living in a single storey Jhuggi No. C-603. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi but her claim has been wrongly rejected by DDA and aggrieved by the same she has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure J, and prayed that DDA be directed to make allotment in her favour.

9. DDA has furnished the survey records along with one video clip. This video clip was played before the Appellant/Claimant when her statement was recorded before us on 24.01.2023 wherein she has stated that in the video clip she (Kalpana-Appellant/Claimant) is seen standing in the Jhuggi No. C-603 regarding which she is claiming allotment from DDA. Thus the statement of the Appellant/Claimant as well as the survey records/video clip has duly proved that a single storey Jhuggi of the Appellant/Claimant was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/ Claimant used the said Jhuggi No. C-603 for residential purposes.

10. Accordingly, we have no hesitation in holding that the Jhuggi 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 & her family has been using the said Jhuggi No. C-603 for residential purposes.

11. Now we shall 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.

12. 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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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**
> **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

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- 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.

16. The Appellant/Claimant has tendered her Voter ID Card bearing number ARE 2231066 (Annexure-B), Aadhar Card (Annexure-B) and Pan Card (Annexure-C).

17. The Appellant/Claimant has tendered her Voter ID Card bearing number ARE 2231066 (Annexure-A), which has been issued on 16.03.2019, much after the cutoff date of 01.01.2015. Accordingly, the question of her name appearing in at least 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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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 at least 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, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

18. The Appellant/Claimant has tendered the Aadhar Cards, Annexure- D to Annexure-F, of her husband Sunil Kumar and also both the sons, Karan & Vishal, respectively as well as the Electricity Bill (Annexure-G), Ration Cards, Annexure- H & Annexure-I, and her Pass Book of Indian Bank (Annexure-J). The old Ration Card (Annexure-I) has been issued in the name of her father-in-law, Hari Chand on 17.01.1995 and the new Ration Card (Annexure-H) has been issued in the name of the Appellant/Claimant but the date of issuance is not mentioned. The Electricity Bill (Annexure-G) shows that the electricity connection has been issued in the name of her father-in-law on 14.06.2008. The Pass Book of Indian Bank (Annexure-J) shows that the Appellant/Claimant has opened the account in the year 2016. The material placed on file shows that the Appellant/ Claimant is not having a Voter ID Card, on the cut off date of 01.01.2015 and 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 and accordingly merely tendering the documents, Annexure- D 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.

19. 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 as her Voter ID Card bearing number ARE 2231066 (Annexure-A), has been issued on 16.03.2019, much after the cutoff date of 01.01.2015 and 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. 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 Appellant/ Claimant was not having the requisite mandatory document, i.e., a valid Voter ID Card, on the cutoff date of 01.01.2015 and her name also does not appear in at least on the voter list of the year's

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2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, she 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 her claim. There is no infirmity and illegality in the impugned order bearing No. 385/14/25.G/739 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: 119 of 2022

Date of Institution: 22.11.2022

Date of Order: 10.02.2023

Present: Appellant/ Claimant Rajesh S/o Ram 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-28, 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-28 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. 385/58/69.1/1149

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dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 119 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 03.02.2023. 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-28 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 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.

7. The statement of the Appellant/Claimant has been recorded before us on 03.02.2013, wherein he has stated that his parents, Ram Prasad & Parwati, are having two sons, namely, Rajesh (Appellant/Claimant) & Mukesh and three daughters, namely, Anita,

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Savita & Sumita. All the children except Sumita are married. Rajesh is married with Poonam but her whereabouts are not known and accordingly he contracted second marriage with Sunita and having three children, namely, Sunayana, Krishna & Yuv. Mukesh is married with Reena and having two children, namely, Roshan & Puja. Anita is living in her matrimonial home at Jaipur. Savita has married with Nurul and having one son Arun.

8. The Appellant/Claimant has stated Savita along with her family is living in Jhuggi No. C-345 in Bhoomiheen Camp and she had sought allotment from DDA against the said Jhuggi but her claim has been rejected and accordingly aggrieved by the same she has filed Appeal No. 148 of 2022 before the Appellate Authority. It is pointed out that the Appeal No. 148 of 2022 and the present Appeal No. 119 of 2022 shall be decided separately on their respective merit.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi bearing No. A– 28. His parents are living on the ground floor of the said Jhuggi No. A–28 along with the family of their son Mukesh and regarding that DDA has made allotment in favour of Parvati. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated he along with his family is living on the first floor of the said Jhuggi bearing No. A-28. The Appellant/Claimant has sought allotment against the first floor of the said Jhuggi No. A-28 but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make alternative allotment in his favour as per the policy guidelines issued by DDA.

11. DDA has furnished the survey records along with five video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 03.02.2023 wherein he has stated that in the three video clip his mother Parvati is seen in her Jhuggi on the ground floor and further she is also seen going to the first floor. Further in two video clips he (Rajesh (Appellant/Claimant) is seen in his Jhuggi 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 pucca Jhuggi No. A-28 was in

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Savita & Sumita. All the children except Sumita are married. Rajesh is married with Poonam but her whereabouts are not known and accordingly he contracted second marriage with Sunita and having three children, namely, Sunayana, Krishna & Yuv. Mukesh is married with Reena and having two children, namely, Roshan & Puja. Anita is living in her matrimonial home at Jaipur. Savita has married with Nurul and having one son Arun.

8. The Appellant/Claimant has stated Savita along with her family is living in Jhuggi No. C-345 in Bhoomiheen Camp and she had sought allotment from DDA against the said Jhuggi but her claim has been rejected and accordingly aggrieved by the same she has filed Appeal No. 148 of 2022 before the Appellate Authority. It is pointed out that the Appeal No. 148 of 2022 and the present Appeal No. 119 of 2022 shall be decided separately on their respective merit.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi bearing No. A– 28. His parents are living on the ground floor of the said Jhuggi No. A–28 along with the family of their son Mukesh and regarding that DDA has made allotment in favour of Parvati. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated he along with his family is living on the first floor of the said Jhuggi bearing No. A-28. The Appellant/Claimant has sought allotment against the first floor of the said Jhuggi No. A-28 but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make alternative allotment in his favour as per the policy guidelines issued by DDA.

11. DDA has furnished the survey records along with five video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 03.02.2023 wherein he has stated that in the three video clip his mother Parvati is seen in her Jhuggi on the ground floor and further she is also seen going to the first floor. Further in two video clips he (Rajesh (Appellant/Claimant) is seen in his Jhuggi 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 pucca Jhuggi No. A-28 was in

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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.

12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-28 in 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 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.

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-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 cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is having a joint Ration Card with his mother, Parvati. 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. 385/58/69.1/1149 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 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

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- 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:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which 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 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 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.

22. The Appellant/Claimant has tendered his Voter ID Card bearing number CXY 1338276 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), the Voter list of the year 2012 (Annexure-K) and the Voter list of the year 2019 (Annexure-L).

23. The Appellant/Claimant has tendered the Voter ID Card bearing number CXY 1338276 (Annexure-A), which has been issued on 17.09.2002, much prior to the cut off date of

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01.01.2015. The Appellant/Claimant has also tendered the Voter Lists Voter list of the year 2012 (Annexure-K) in which his name appears at Sl. No. 171 and the Voter list of the year 2019 (Annexure-L) in which his name appears at Sl. No. 299. 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, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

24. 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-28 regarding which he is claiming allotment from DDA. He has tendered Joint Ration Card (Annexure-E), in which the names of the family members including that of the present Appellant/ Claimant have been mentioned. However, the date of issuance of the ration card is not mentioned. But the fact remains that the Appellant/ Claimant is not having a separate Ration card despite of the fact that he is claiming allotment 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.

25. The Appellant/ Claimant has also tendered the Electricity Bill (Annexure-F), Aadhar Cards, Annexure-G to Annexure-I, of his wife Suniita & children Sunaina & Krishna respectively and Pass Book of PNB (Annexure-J). The Electricity Bill (Annexure-F) shows that the Electricity connection has been taken on 26.06.2008 in the name of his mother Parvati on her Jhuggi on the ground floor. There was no separate electricity connection for the first floor. The Pass Book of PNB (Annexure-J) shows that the Appellant/ Claimant on 16.01.2014 has opened the account. The documents, Annexure-F 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. 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

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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 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.

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. 385/58/69.1/1149 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.

(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: 485 of 2023

Date of Institution: 01.12.2022

Date of Order: 07.02.2023

Present: Appellant/ Claimant Javedanand S/o Ramanand 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-241, 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-241 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

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its order bearing No. 385/26/95.1-A/866 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 485 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 30.01.2023. 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-241 was found to exist on the first 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.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and 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.

7. The statement of the Appellant/Claimant has been recorded before us on 30.01.2013, wherein he has stated that his parents, Ramanand & Sumati are having five sons, namely, Vivekananda, Jawedanand (Appellant/Claimant), Vikas, Prakash & Prabhash

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and one daughter, namely, Vijayalakshmi. His father Ramanand had expired long ago whereas his mother Sumati is living in village Batki Doh, District Betul, Madhya Pradesh. Vivekananda is married with Ratna & having two children and they are living in village Madanpur Khadar. Vikas is married with Savita & having three children and they are living in DDA Flats, Kalkaji. Parkash is married with Savitri & having two children and they are living in Govindpuri. Prabhas was married with Parul and having two children, Archana & Shubham. Prabhas had also expired. Jawedanand (Appellant/Claimant) is married with Bhanumati and having three children, Divya, Ritik & Sarwan. Vijayalakshmi is married and she is living in her matrimonial home in Madhya Pradesh.

8. The Appellant/Claimant has stated that he as well as his brother Prabhash are living in Bhoomiheen Camp in a double storey Jhuggi No. C-241. Parul widow of Prabhas along with her two children, Archana & Shubham, is living on the ground floor of Jhuggi No. C-241and regarding that DDA has made allotment in favour of Parul. These facts are not disputed by DDA.

9. The Appellant/ Claimant has further stated that he along with his wife Bhanumati and children, Divya, Ritik & Sarwan, is living on the first floor of the Jhuggi No. C-241. The Appellant/ Claimant has sought allotment from DDA but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present appeal. 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 three video clips and all the video clips were played before the Appellant/Claimant when his statement was recorded before us on 30.01.2013 wherein he has stated that in one video clip Parul widow of his brother Prabhash is seen on her ground floor Jhuggi whereas in two video clips he (Javedananad-Appellant/Claimant) is seen standing in his Jhuggi on the first floor and a pucca staircase going 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 a pucca double storey Jhuggi of the family of the Appellant/Claimant bearing Jhuggi No. C-241 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and

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the first floor of the said Jhuggi was used by the Appellant/ Claimant & his family for residential purposes.

11. Accordingly, we have no hesitation in holding that the Jhuggi No. C-241 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 have been using the first floor of the said Jhuggi No. C-241 for residential purposes.

12. Now we shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether 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.

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-I, 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 Voter ID Card & 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. 385/26/95.1-A/866 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
> **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

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 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 valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and 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.

21. The Appellant/Claimant has tendered his Voter ID Card No. MZM 1738030 (Annexure-A) and Aadhar Card (Annexure-B).

22. It is pointed out that the Voter ID Card No. MZM 1738030 (Annexure-A) has been issued on 20.04.2022, much after to the cut off date of 01.01.2015. Accordingly, the question of his name appearing in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, does not arise. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not

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having a 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, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

23. The Appellant/ Claimant has also tendered his Pass Book of HDFC (Annexure-C), Ration Card (Annexure-D), Aadhar Cards (Annexure-E to Annexure-H) of his wife (Bhanumati) & three children, namely, Sarwan, Ritik & Divya, respectively and also the Electricity Bill (Annexure-I). The Pass Book of HDFC (Annexure-C) shows that the account was opened by the Appellant/ Claimant on 24.09.2021, much after the cut off date of 01.01.2015. The Ration Card (Annexure-D) shows that it was issued in the name of the Appellant/ Claimant but the date of issuance is not mentioned. The Electricity Bill (Annexure-I) shows that the present Appellant/ Claimant was not having the electricity connection but it has been taken in the name of his brother Prabhash on 06.06.2018 on his Jhuggi on the ground floor. The documents, Annexure-C 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 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 at least 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. 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 as his Voter ID Card bearing number MZM 1738030 (Annexure-A) has been issued on 20.04.2022, much after to 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. 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 Appellant/ Claimant was not having the requisite mandatory document, i.e., Voter ID Card, on the cutoff 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, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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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. 385/26/95.1-A/866 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)	(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: 230 of 2022

Date of Institution: 23.11.2022

Date of Order: 07.02.2023

Present: Appellant/ Claimant Mohd. Azruddin S/o Zakir Hussain

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-333, 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-333 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. 385/68/37.1/1557 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 230 of 2022 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 04.01.2023. 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-333 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 **"Voter ID 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 valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015.

7. The statement of the Appellant/ Claimant, MD. Azruddin, has been recorded before us on 04.01.2023, wherein he has stated that his parents, Zakir Hussain & Shabra Begum, are having one son, namely, MD. Azruddin (Appellant/Claimant) and three daughters, namely, Nisha, Razia & Shabnam. Out of whom Razia & Shabnam are unmarried. Nisha was married with Golu but she had divorced him. MD. Azruddin is married with Shiba and they are having one daughter, Samaira.

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8. The Appellant/ Claimant has stated that his parents are having a triple storey Jhuggi. Both of his parents, Zakir Hussain & Shabra Begum along with their unmarried daughters Razia & Shabnam are living on the ground floor, which was bearing Jhuggi no. C-333, and regarding that DDA has made allotment in favour of his mother, Shabra Begum. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that he along with his wife Shiba & daughter, Samaira is living on the first & second floors of the said Jhuggi, which was bearing Jhuggi No.C-333. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure-J, and prayed that DDA be directed to make allotment in his favour.

10. DDA has furnished the survey records along with three video clips. These video clips were played before the Appellant/Claimant when his statement was recorded before us on 04.01.2023 wherein he has stated that in these video clips he along with his wife Shiba is seen standing in the Jhuggi on the first floor and further brick stair case going to 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 pucca triple storey Jhuggi of the family of the Appellant/Claimant was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/ Claimant & his family used the first & second floors of the said Jhuggi No C-333 for residential purposes.

11. Accordingly, we have no hesitation in holding that the Jhuggi 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 has been using the first & second floors of the said Jhuggi No. C-333 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 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.

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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-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 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. 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 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). Accordingly, there is no illegality in the impugned rejection order bearing No. 385/68/37.1/1557 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.

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

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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 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

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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.

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 & 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.

21. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 2181477 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C) and Voter List of the year 2019 (Annexure-J).

22. The Voter ID Card bearing number ARE 2181477 (Annexure-A) has been issued on issued on 15.02.2018, much after the cutoff date of 01.01.2015. Accordingly, the question of his name appearing in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) does not arise at all. The Appellant/Claimant has tendered the Voter List of the year 2019 (Annexure-J) in which his name appears at Sl. No.641 thereby showing that his name appears in the voter list of the year of survey and not in the voter list of the earlier 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 does not appear in at least on 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.

23. The Appellant/Claimant has admitted that he is not having a separate Ration Card on the address of first floor of the Jhuggi No. C-333 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered joint Ration Card (Annexure-I). The Ration Card (Annexure-J) has been issued on 22.08.1996 in the name of his father Zakir Ahmad and the names of the family members, including the name of the present Appellant/Claimant, have been recorded. But the fact remains that

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the Appellant/Claimant is claiming allotment from DDA against the first floor of the Jhuggi No. C-333 but he is not having a separate Ration Card on the cutoff date of 01.01.2015. 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.

24. The Appellant/Claimant has also tendered the Voter ID Card bearing number ARE 2523108 (Annexure-D), Aadhar Card (Annexure-E), Pan Card (Annexure-F) and Pass Book of Bank of India (Annexure-G) of his wife Shiba and the Electricity Bill (Annexure-H).

25. The Voter ID Card bearing number ARE 2523108 (Annexure-D) of Shiba has been issued on issued on 28.07.2020, much after the cutoff date of 01.01.2015. This shows that neither the Appellant/Claimant nor his wife Shiba was having Voter ID Cards on 01.01.2015 issued on the address of first floor of the Jhuggi No. C-333 regarding which the Appellant/Claimant is claiming allotment from DDA.

Further, the Pass Book of Bank of India (Annexure-G) shows that Shiba has opened the account on 03.01.2022, much after the cutoff date of 01.01.2015. The Electricity Bill (Annexure-H) shows that the electricity connection was taken in the name of his father, Zakir Ahmad on 07.06.2008 but the fact remains that the Appellant/Claimant is not having electricity connection in his Jhuggi on the first floor. The material placed on file shows that neither the Appellant/Claimant nor his wife was having Voter ID cards and also separate Ration Card, on the cutoff date of 01.01.2015. The documents, Annexure-D 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.

26. The material placed on file shows that the Voter ID Card bearing number ARE 2181477 (Annexure-A) has been issued on issued on 15.02.2018, much after the cutoff date of 01.01.2015 and accordingly 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 at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and further he was not having a separate Ration Card on the cutoff date of 01.01.2015 as he is

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claiming allotment against the upper floor. 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, i.e., a valid Voter ID Card & a separate Ration Card, on the cutoff 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). Therefore, he 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. 385/68/37.1/1557 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: 106 of 2022

Date of Institution: 22.11.2022

Date of Order: 10.02.2023

Present: Appellant/ Claimant Ratna Das W/o Pran Govind Das D/o Pradeep Kumar

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-442, 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-442 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. 385/26/105.1/872 dated 07.11.2022

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to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 106 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 16.01.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-Q, 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-442 was found to exist on the first floor but she had failed to submit required documents, i.e., 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.

   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 Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and 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.

7. The statement of the Appellant/ Claimant has been recorded before us on 16.01.2023, wherein she has stated that her in-laws, Narayan Chand Das & Savita, are having two sons, Nityanand & Pran Govind and one daughter, Nirupa Shana. All their children are

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married. Nityanand is married with Jhuma and having two children, Radhey Mohan & Rishab. Pran Govind is married with Ratna Das (Appellant/ Claimant) and having two children, Garima & Shivansh. Nirupa Sana is married with Sarjit Shana.

8. The Appellant/ Claimant had stated that Nirupa Shana along with her husband Sarjit Shana is living in her matrimonial home bearing Jhuggi No. B-442 and regarding that DDA has made allotment in favour of Nirupa Sana. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that her in-laws, Narayan Chand Das & Savita, are having a triple story Jhuggi bearing No. B-442. Her in-laws, Narayan Chand Das & Savita along with the family of their son Nityanand are living on the ground floor & second floor of the Jhuggi bearing No. B-442 and regarding that DDA has made allotment in favour of his mother-in-law Savita. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that she along with her husband Pran Govind & two children, Garima & Shivansh is living on the first floor of the said Jhuggi bearing No. B-442. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi but her claim has been wrongly rejected by DDA and aggrieved by the same she has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure Q, and prayed that DDA be directed to make allotment in her favour.

11. DDA has furnished the survey records along with six video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 16.01.2023 wherein she has stated that the four video clips pertains to the ground floor Jhuggi and in the video clips her mother-in-law Savita is seen. Whereas in the other two video clips she (Ratna Das- Appellant/ Claimant) is seen in her Jhuggi on the first floor bearing Jhuggi No. B-442, regarding which she has claimed allotment from DDA. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that triple storey Jhuggi of the family of the Appellant/Claimant bearing Jhuggi No. B-442 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the first floor of the said Jhuggi have been used by the Appellant/ Claimant & her family for residential purposes.

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12. Accordingly, we have no hesitation in holding that the Jhuggi No. B-442 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 & her family have been using the first floor of the said Jhuggi No. B-442 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 Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and 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.

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-Q, 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. 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. 385/26/105.1/872 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 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

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- 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 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 was having all the requisite documents, including separate Ration Card, on the cutoff date of 01.01.2015.

22. The Appellant/Claimant has tendered her two Voter ID Cards bearing No. ARE 1158702 (Annexure-A & Annexure-P), Aadhar Card (Annexure-B), Pan Card Annexure-C), Voter List of the year 2012 (Annexure-L), Voter List of the year 2013 (Annexure-M), Voter List of the year 2014 (Annexure-N), Voter List of the year 2015 (Annexure-O) and Voter List of the year 2019 (Annexure-P).

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23. It is pointed out that the Appellant/Claimant has tendered her two Voter ID Cards bearing No. ARE 1158702 (Annexure-A & Annexure-Q). In the first Voter ID Card (Annexure-Q) issued on 27.10.2008 the name of her husband was wrongly mentioned to be Prem Govind Das and she got the same corrected to Pran Govind Das by getting the second Voter ID Card (Annexure-A) issued on 03.03.2022. Thus the Appellant/Claimant was having a Voter ID Card bearing number ARE 1158702, which has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. It is pointed out that the name of the Appellant/Claimant appears in the Voter List of the year 2012 (Annexure-L), Voter List of the year 2013 (Annexure-M), Voter List of the year 2014 (Annexure-N), Voter List of the year 2015 (Annexure-O) and Voter List of the year 2019 (Annexure-P) and in all these documents her Voter ID Card bearing number ARE 1158702 is mentioned and her address is mentioned to be B-442. It shows that the Appellant/Claimant was having a Voter ID Card bearing number ARE 1158702, which has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015 and further her name also 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.

24. The Appellant/Claimant has admitted that she is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. B-442 regarding which she has claimed allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-D) issued on 30.10.2014 in the name of her mother-in-law Savita and the names of the family members, including the name of the present Appellant/Claimant & her husband Pran Govind Das, have been mentioned. 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 the first floor of the Jhuggi bearing No. B-442 regarding which she 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 two Voter ID Cards of her husband Pran Govind Das issued on Jhuggi No. B-442. First is bearing No. ARE 1156694 (Annexure-E) issued on 27.10.2008 and the second is bearing No. ARE 2019239 (Annexure-F) issued on 21.01.2015. No explanation has been given as to why her husband was having two

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Voter ID Cards. The Appellant/Claimant has tendered the Aadhar Card (Annexure-G), Driving License (Annexure-H) & Pan Card (Annexure-I) of her husband Pran Govind Das and her Pass Book of SBI (Annexure-J) showing the account was opened on 27.12.2021 & Electricity Bill (Annexure-K) of her father-in-law, Narayan showing that the connection has been taken on 13.11.2009. The abovementioned documents, Annexure-E 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 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.

26. The material placed on file shows that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 as her Voter ID Card bearing number ARE 1158702, which has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015 and further her name also 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 but she was not having a separate Ration Card on the cutoff date of 01.01.2015. 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 her favour to claim allotment from DDA because as per our discussion above she was not having a separate Ration Card on the cut off date of 01.01.2015. Hence, 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. Therefore, she 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 her claim. There is no infirmity and illegality in the impugned order bearing No. 385/26/105.1/872 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

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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) 10/2/2023	(Satish Ahlawat) 10/2/2023	(Rachna Tiwary) 10/2/2023
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: 282 of 2023

Date of Institution: 25.11.2022

Date of Order: 13.02.2023

Present: Appellant/ Claimant Tulsi Biswas Widow of Biren Biswas D/o Mihir 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 she is living in Jhuggi bearing No. A-325/1, 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 records it was found by the EDC that the ground floor & upper floor of the Jhuggi No. A-325 are not separate & independent dwelling units but were found to be part & parcel of single dwelling unit for all purposes and accordingly the Appellant/ Claimant was not found entitled for alternate allotment against the upper floor as per the policy guidelines because one allotment against ground floor of Jhuggi No. A-325 has already been made in favour of her mother-in-law, Suneeti Biswas. Hence, the

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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. 385/60/019.1-A/1249 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 282 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 02.02.2023. 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 ground floor & upper floor of the Jhuggi No. A-325 were found not to be separate & independent dwelling units but were found to be part & parcel of single dwelling unit for all purposes and accordingly the Appellant/ Claimant was not found entitled for alternate allotment against the upper floor as per the policy guidelines because one allotment against ground floor of Jhuggi No. A-325 has already been made in favour of her mother-in-law, Suneeti Biswas. 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/Units 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.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant for claiming allotment against the first floor. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant

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was living on the first floor of Jhuggi bearing No. A-325 and having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further as to whether the ground floor & upper floor of Jhuggi bearing No. A-325 are separate & independent dwelling units or they are part & parcel of single dwelling unit for all purposes and when one allotment against Jhuggi bearing No. A-325 has already been made in favour of her mother-in-law, Suneeti Biswas then whether second allotment in favour of the present Appellant/Claimant is permissible against the said Jhuggi as per policy of DDA.

8. The statement of the Appellant/ Claimant, Tulsi Biswa, has been recorded before us on 02.02.2023, wherein she has stated that her in-laws, Nityanand & Suniti, are having four sons, namely, Biren, Narender, Billu & Gokul and one daughter, namely, Laxmi.

9. The Appellant/Claimant has stated that her family was having a double storey Jhuggi No. A-325 comprising of one room on the ground floor and two rooms on the first floor. The Appellant/Claimant has further stated adjoining to the abovementioned Jhuggi No. A-325 there is another double storey Jhuggi bearing No. A-315. Furthermore, Namita, who hails from the village of her mother-in-law, Suneeti, lives on the ground floor of the said Jhuggi No. A-315 and regarding that DDA has made allotment in favour of Namita against the said Jhuggi. Whereas Gokul S/o Nityanand lives on the first floor of Jhuggi No. A-315 but his claim has been rejected by DDA. These facts are not disputed by DDA. However, it is pointed out that the Appeal No. 280 of 2023 filed by Gokul and the present Appeal No. 282 of 2023 shall be decided separately on their individual merits, as the subject matter is different.

10. The Appellant/Claimant has stated that her family was having a double storey Jhuggi No. A-325 comprising of one room on the ground floor and two rooms on the first floor. The rooms on the first floor was not having independent access from the gali but the wooden ladder placed inside the room on the ground floor was used for going to the first floor. Thus the admission of the Appellant/Claimant is a clincher piece of evidence and it shows that the upper floor was not having independent access from the gali but the wooden ladder placed inside the room on ground floor has been used for going to the upper floor thereby making both the floors to be part & parcel of the same dwelling unit.

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11. The Appellant/Claimant has stated that her mother-in-law, Suneeti widow of Nityanand, along with the family of one of her son Narender with his wife Rupali & children, Neha & Puja, has been living in the room on the ground floor and regarding that DDA has made allotment in favour of her mother-in-law Suneeti against the said Jhuggi. The Appellant/Claimant has further stated that Billu along with his wife Mona and children, Vikram & Nupur, has been living in one of the room on the first floor of Jhuggi No. A-325 and regarding that DDA has made allotment in favour of Mona W/o Billu against the said Jhuggi. These facts are not disputed by DDA.

12. The Appellant/Claimant Tulsi widow of Biren Biswas has further stated that she along with her children, Pinki, Ajay & Vijay, has been living in the second of room on the first floor of Jhuggi No. A-325. The Appellant/Claimant has stated that the rooms on the first floor was not having independent access from the gali but the wooden ladder placed inside the ground floor room of Suneeti was used for going to the first floor regarding which she is claiming allotment from DDA. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi but her claim has been wrongly rejected by DDA and aggrieved by the same she has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure H, and prayed that DDA be directed to make allotment in her favour.

13. DDA has furnished the survey records along with five video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 02.02.2023 wherein she has stated that in the first two video clips her mother-in-law, Suneeti, is seen standing in her Jhuggi on the ground floor and further a wooden ladder going from inside the room of Suneeti to the upper floor is clearly seen. In two other video clips Mona W/o Billu is seen in her Jhuggi on the first floor and further in one video clip she (Tulsi- Appellant/Claimant) is seen in her Jhuggi on the first floor.

14. The Appellant/Claimant has specifically stated that the rooms on the first floor were not having independent access from the gali but the wooden ladder placed inside the room of Suneeti on the ground floor was used for going to the rooms on the first floor regarding which the Appellant/Claimant and Mona W/o Billu are claiming allotment from DDA. Thus

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the admission of the Appellant/Claimant is a clincher piece of evidence and further the admission has been duly corroborated by the survey records/video clips and it is proved that a pucca double storey Jhuggi of the family of the Appellant/Claimant bearing Jhuggi No. A-325 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015. But the first floor is not having access from the main gali but there is wooden ladder placed inside the room of Suneeti on the ground floor for going to the rooms of Tulsi (Appellant/Claimant) & Mona W/o Billu on the first floor. Thus the ground & first floors are the part & parcel of the same dwelling unit bearing Jhuggi No. A-325 regarding which DDA has already made allotment in favour of Suneeti. Two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA. But the Appellant/Claimant in collusion with his family members has tried to get maximum allotments from DDA by hook or crook.

15. Accordingly, we have no hesitation in holding that the Jhuggi No. A-325 is a pucca double storey structure and its ground & first floors are the part & parcel of the same dwelling unit bearing Jhuggi No. A-325 regarding which DDA has already made allotment in favour of Suneeti. Two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

16. As pointed out above, the Appellant/Claimant has stated that her family was having a double storey Jhuggi No. A-325 comprising of one room on the ground floor and two rooms on the first floor. Against the rooms on the first floor the present Appellant/Claimant as well as Mona W/o Billu have claimed allotment from DDA. The claim of the present Appellant/Claimant was rejected by EDC but the claim of Mona W/o Billu was allowed thereby making allotment in her favour. We have already held hereinabove that the rooms on the first floor was not having independent access from the gali but the wooden ladder placed inside the room on the ground floor was used for going to the first floor. Thus the ground & first floors are the part & parcel of the same dwelling unit bearing Jhuggi No. A-325 regarding which DDA has already made allotment in favour of Suneeti and accordingly two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA. Therefore, DDA is hereby directed to review the case of Mona

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W/o Billu and pass appropriate orders as far as the eligibility of Mona W/o Billu under the policy guideline of DDA is concerned.

17. 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.

18. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-H, in support of 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 Ration Card issued. 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. 385/60/019.1-A/1249 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.

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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

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 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

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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 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. 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 & separate Ration Card, on the cutoff date of 01.01.2015.

26. 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 2014 (Annexure-F), Voter List of the year 2015 (Annexure-G) and Voter List of the year 2019 (Annexure-H).

27. The Appellant/Claimant has tendered her two Voter ID Cards bearing number CXY 1061118 (Annexure-A) and ARE 1140144 (Annexure-B). The first Voter ID Card, has been issued on 05.03.2002 and the second Voter ID Card has been issued on 27.10.2008. This shows that both the Voter ID Cards have been issued much prior to the cutoff date of 01.01.2015. Furthermore, her name appears at Sl. No. 557 in the Voter List of the year 2014 (Annexure-F), at Sl. No. 580 in the Voter List of the year 2015 (Annexure-G) and at Sl. No. 618 in the Voter List of the year 2019 (Annexure-H) and in all the Voter Lists her Voter ID Card number is recorded to be ARE 1140144 (Annexure-B). 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 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.

28. The Appellant/Claimant has tendered her Ration Card (Annexure-E), which has been issued in the name of the Appellant/Claimant on 03.05.2014, much prior to the cutoff date of 01.01.2015.

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29. The material placed on file shows that the Appellant/ Claimant was having a Voter ID Card and also a separate Ration Card on the cutoff date of 01.01.2015 and 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. But inspite of that 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 the ground & first floors of the Jhuggi No. A-325/1 are not found to be separate & independent dwelling units but are found to be part & parcel of the same dwelling unit regarding which DDA has already made allotment in favour of her mother-in-law Suneeti and accordingly two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA. Therefore, the Appellant/ Claimant cannot claim allotment against the first floor of Jhuggi No. A-325/1 and she 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. 385/60/019.1-A/1249 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

31. Before parting this order, in the light of our discussion in detail in Para No. 16 above, DDA is hereby directed to review the case of Mona W/o Billu and pass appropriate orders as far as the eligibility of Mona W/o Billu for alternative allotment under the policy of DDA is concerned.

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: 518 of 2023

Date of Institution: 02.12.2022

Date of Order: 13.02.2023

Present: Appellant/ Claimant Amit Kumar Pathak S/o Mohitosh

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-281, 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-281 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. 385/37/16.1/997 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the

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same, the present Appeal No. 518 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 01.02.2023. 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. C-281 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.

   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.

7. The statement of the Appellant/Claimant Amit Kumar Pathak has been recorded before us on 01.02.2013, wherein he has stated that he is having one sister, namely, Deepika. His

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biological parents Mahitos & Kalpana had abandoned them when they were toddlers and accordingly Paritosh Sarkar & Kalpana Sarkar took care of them as foster parents. Paritosh Sarkar is having one daughter, namely, Moitri, who is married and living in her matrimonial home. Whereas both Amit Kumar Pathak (Appellant/Claimant) & Deppika are unmarried and living with the family of Paritosh Sarkar.

8. The Appellant/Claimant has stated that his foster parents Paritosh Sarkar & Kalpana Sarkar are having a double storey Jhuggi No. C-286 and regarding the ground floor of the said Jhuggi Kalpana had got allotment from DDA. These facts are not disputed by DDA.

9. The Appellant/Claimant has further stated that he along with his sister Deepika is living on the first floor of the said Jhuggi bearing Jhuggi No. C-281 but they were having a joint kitchen with Paritosh Sarkar & Kalpana Sarkar on the ground floor. The Appellant/Claimant has sought allotment against the first floor of the said Jhuggi bearing Jhuggi No. C-281 but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make alternative allotment in his favour as per the policy guidelines issued by DDA.

10. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that both the brother and sister, Amit & Deepika, are unmarried and they are having joint kitchen with their foster parents Paritosh Sarkar & Kalpana Sarkar. Therefore, it shows that they (Amit & Deepika) were not living separately & independently but they were living jointly with their foster parents.

11. DDA has furnished the survey records along with two video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 01.02.2023 wherein he has stated that in the first video clip Kalpana Sarkar is seen in her Jhuggi on the ground floor and one room & a kitchen is also seen in the video and further she is also heard saying that four people are staying together in the double storey Jhuggi. The four persons means Paritosh Sarkar, Kalpana Sarkar, Amit & Deepika because Moitri is living in her matrimonial home. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey pucca Jhuggi of

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Paritosh Sarkar & Kalpana Sarkar was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 but the Appellant/Claimant and his sister Deepika were not living separately & independently but they were living jointly with their foster parents on the cut off date of 01.01.2015.

12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-281 in Bhoomiheen Camp is a pucca structure and it was in existence much prior to the cutoff date of 01.01.2015 and further Paritosh Sarkar & Kalpana Sarkar were living on the ground floor whereas Amit (Appellant/ Claimant) with her sister Deepika was living on the ground floor but for all purposes they were living jointly with their foster parents Paritosh Sarkar & Kalpana Sarkar. DDA has already made allotment in favour of Kalpana Sarkar W/o Paritosh Sarkar against Jhuggi No. C-281 and accordingly two allotments against one dwelling unit is not permissible as per guidelines of DDA because as per our discussion above the present Appellant/Claimant Amit Kumar Pathak along with his sister Deepika was living jointly with their foster parents Paritosh Sarkar & Kalpana Sarkar on the cutoff date of 01.01.2015.

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 & 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.

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-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 cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has

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claimed allotment against the upper floor but he is not having a separate Ration Card. 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. 385/37/16.1/997 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.
> 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

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.

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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 appear in at least 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 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.

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22. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 2556280 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C).

23. The Appellant/Claimant has tendered the Voter ID Card bearing number ARE 2556280 (Annexure-A), which has been issued on 22.10.2021, much after the cut off date of 01.01.2015. Accordingly, the question of his name appearing in at least on 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 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 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, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

24. The Appellant/Claimant has admitted that he is not having a separate Ration Card on the address of first floor of the Jhuggi No. C-281 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 mandatory for the upper floor.

25. The Appellant/ Claimant has also tendered his Passport (Annexure-D), SSC Certificate (Annexure-E), SSC Mark Sheet (Annexure-F), BA Degree (Annexure-G), Pass Book of PNB (Annexure-H), Electricity Bill (Annexure-I) as well as the Aadhar Card & Pan Card (Annexure-J and K) of his sister Deepika. The Electricity Bill (Annexure-I) shows that the Electricity connection has been taken on 24.0.2006 in the name of his foster parents Paritosh Sarkar on his Jhuggi on the ground floor. There was no separate electricity connection for the first floor. The documents, Annexure-D 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 Voter ID Card & separate Ration Card on the cut-off date of 01.01.2015 and his name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore,

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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 the Voter ID Card on the cutoff date of 01.01.2015 because his Voter ID Card bearing number ARE 2556280 (Annexure-A), has been issued on 22.10.2021, much after the cut off 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 his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having Voter ID Card & separate Ration Card on the cut-off date of 01.01.2015 and his name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. 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 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. 385/37/16.1/997 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: 280 of 2023

Date of Institution: 25.11.2022

Date of Order: 13.02.2023

Present: Appellant/ Claimant Gokul Viswas S/o Nityanand Viswas

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-325, 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-325 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. 385/58/75.1/1154 dated

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07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 280 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 02.02.2023. 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. No. A-325 was found to exist on the upper floor but he had failed to submit required documents, i.e., 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. However, when the Appellant/Claimant appeared before us he has taken altogether new stand that he is living on the first floor of Jhuggi No. A-315 and not on the first floor of Jhuggi No. A-325. It is also not disputed that Tulsi W/o Biren (who is the real brother of the present Appellant/Claimant) has claimed allotment against the first floor of Jhuggi No. A-325 and as per survey record, the ground floor & upper floor of the Jhuggi No. A-325 were found not to be separate & independent dwelling units but were found to be part & parcel of single dwelling unit for all purposes and the said Tulsi was not found entitled for alternate allotment against the upper floor as per the policy guidelines because one allotment against ground floor of Jhuggi No. A-325 has already been made in favour of her mother-in-law, Suneeti Biswas (who is the mother of the present Appellant/Claimant) and

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aggrieved by the same Tulsi has also filed Appeal No. 282 of 2023 before this Appellate Authority.

8. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant for claiming allotment against the first floor. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was living on the first floor of Jhuggi bearing No. A-315 or 325 and whether he was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further as to whether the ground floor & upper floor of Jhuggi bearing No. A-325 are separate & independent dwelling units or they are part & parcel of single dwelling unit for all purposes and when one allotment against Jhuggi bearing No. A-325 has already been made in favour of his mother, Suneeti Biswas then whether second allotment in favour of the present Appellant/Claimant is permissible against the said Jhuggi as per policy of DDA.

9. The statement of the Appellant/Claimant, Gokul, has been recorded before us on 02.02.2023, wherein he has stated that his parents, Nityanand & Suniti, are having four sons, namely, Biren, Narender, Billu & Gokul and one daughter, namely, Laxmi. All the children are married. Billu is married with Mona and having two children, Vikram & Nupur. Narender is married with Rupali and having two children, Neha & Puja. Biren is married with Tulsi and having three children, Pinki, Ajay & Vijay. Gokul (Appellant/Claimant) is married with Anita and having two children Partik & Naitik. Laxmi is living in her matrimonial home in Nainital. Biren had expired in the year 2015.

10. The Appellant/Claimant has stated that his family was having a double storey Jhuggi No. A-325 comprising of one room on the ground floor and two rooms on the first floor. DDA has made allotments in favour of his mother Suneeti against the ground floor of the said Jhuggi No. A-325 as well as in favour of Mona W/o Billu against the first floor of the said Jhuggi No. A-325. But the claim of Tulsi widow of Biren Biswas has been rejected by DDA and aggrieved by the same she has filed the Appeal No. 282 of 2023 for redressal. These facts are not disputed by DDA. However, it is pointed out that the present Appeal No. 280 of 2023 filed by Gokul and the Appeal No. 282 of 2023 filed by Tulsi widow of Biren Biswas shall be decided separately on their individual merits, as the subject matter is different.

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11. The Appellant/Claimant has stated that adjoining to Jhuggi No. A-325 of his family there is another double storey Jhuggi No. A-315 belonging to Namita Mandal, who hails from his native village and he calls Namita Mandal as "Mausi". After marriage the Appellant/Claimant had faced space constrain and Namita Mandal had permitted the Appellant/Claimant to live on the first floor of her Jhuggi No. A-315. DDA has made allotment in favour of Namita Mandal against the ground floor of her Jhuggi No. A-315. The Appellant/Claimant has sought allotment from DDA against the first floor of Jhuggi No. A-315 of Namita Mandal but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure L, and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished the survey records along with eight video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 02.02.2023 wherein he has stated that five video clips pertains to the double storey Jhuggi No. A-325 of his parents regarding which Suniti, Mona & Tulsi have claimed allotment from DDA. Whereas three video clips pertain to the double storey Jhuggi No. C-315 of Namita Mandal. In the first video clip Namita Mandal is seen standing in her Jhuggi on the ground floor and in two other video clips he (Gokul- Appellant/Claimant) is seen in his Jhuggi on the first floor of the said Jhuggi No. C-315.

13. It is pointed out that as per the admitted case of the present Appellant/Claimant he is not related to Namita Mandal but she is known to the Appellant/Claimant simply because they happened to be from the same village. The Appellant/Claimant has come forward with a storey that Jhuggi No. A-325 is adjoining to the Jhuggi No. A-315. Here it is pointed out that the present Appellant/Claimant has admitted that in the video furnished by DDA the ground & first floor of Jhuggi bearing No. A-325 of his parents are clearly not seen to be separate & independent dwelling units but both the floors are part & parcel of single dwelling unit for all purposes as wooded staircase placed inside the room on the ground floor and used for going to the upper floor is clearly seen. It is not disputed that DDA has already made one allotment against Jhuggi bearing No. A-325 in favour of his mother, Suneeti Biswas and another allotment in favour of Mona W/o Biilu against the first floor.

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The Appellant/Claimant very well knew that he cannot get allotment against the first floor of the said Jhuggi No. A-325 and accordingly, he had started claiming allotment against Jhuggi No. A-315 by concocting a wrong & false story that he was permitted by Namita Mandal, who is the owner of Jhuggi no. A-315 to live on the first floor of her Jhuggi.

14. The Appellant/Claimant has come forward with a story that he was living with his parents in their Jhuggi No. A-325 but after marriage the Appellant/Claimant had faced space constrain and accordingly Namita Mandal had permitted him to live on the first floor of her Jhuggi No. A-315. It is pertinent to point out that the Appellant/Claimant has not disclosed the date, month & year of his marriage and also when he had allegedly shifted to the first floor of the Jhuggi of Namita Mandal. But the fact remains that the double storey Jhuggi No. A-315 belongs to Namita Mandal and the Appellant/Claimant was merely a licensee under her. It is admitted that DDA has made allotment to Namita Mandal against her Jhuggi No. A-315 and she could not get second allotment against that Jhuggi and accordingly the Appellant/Claimant had entered into a conspiracy to device an arrangement for getting second allotment by showing that the Appellant/Claimant was living on the first floor of her Jhuggi No. A-315. In furtherance of their conspiracy they have also succeeded in getting the survey/videography conducted. Here it is pertinent to point out that the Appellant/Claimant has tendered document, Annexure-A to L, in support of his claim and all the documents have been issued on the address of Jhuggi No. A-325 of his parents. No documents have been issued on the address of first floor of Jhuggi No. A-315 regarding which the Appellant/Claimant is claiming allotment from DDA. This shows that the present Appellant/Claimant dishonestly & fraudulently had concocted a wrong a false storey that he was living on the first floor of Jhuggi No. A-315 of Namita Mandal. Had it been so Voter ID Card, Aadhar Card, Ration Card etc. have been issued on the address of first floor of Jhuggi No. A-315 in normal course. But getting documents issued on Jhuggi No. A-325 shows that he was actually living in Jhuggi No. A-325 and not in Jhuggi No. A-315. Furthermore, DDA has already made allotment in favour of Namita Mandal and accordingly second allotment against that Jhuggi is not permissible as per the policy of DDA as the Appellant/Claimant has tried to cheat & defraud DDA in order to claim allotment on the basis of wrong claim by hook or crook. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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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 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.

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-L, 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 has claimed allotment against the upper floor but he is not having a Ration Card issued. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/58/75.1/1154 dated 07.11.2022 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.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.

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

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

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

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

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.

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,

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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.

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 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.

24. The Appellant/Claimant has admitted that he is not having a separate Ration card issued on the address of first floor of Jhuggi No. A-315 regarding which he is claiming allotment from DDA. He has tendered old Ration Card (Annexure-H) issued in the name of his mother Suniti on 31.07.2008 and new Ration Card (Annexure-I) issued in the name of his mother Suniti. Both the joint ration cards have been issued in the name of his mother Suniti and the names of the family members, including that of the present Appellant/Claimant, have been mentioned. It is pertinent to point out that both the joint ration cards have been issued on the address of Jhuggi No. A-325 whereas the Appellant/Claimant is claiming allotment against the first floor of Jhuggi No. A-315. Therefore, both the documents are not relevant. The fact remains that the Appellant/Claimant is not having a separate Ration card issued on the address of first floor of Jhuggi No. A-325 of his parents and also on the address of first floor of Jhuggi No. A-315 of Namita Mandal 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.

25. The Appellant/Claimant has tendered his Voter ID Card CXY 1068360 (Annexure-A) issued on 05.03.2002, Aadhar Card (Annexure-B) & Pan Card (Annexure-C) as well as the Voter ID Card ARE 1130566 (Annexure-D) issued on 27.10.2008, Aadhar Card (Annexure-E) & Pan Card (Annexure-F) of his wife Anita; Electricity Bill (Annexure-G), Voter List of the year 2008

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(Annexure-J), Voter List of the year 2013 (Annexure-K) and Voter List of the year 2019 (Annexure-L). Here it is pertinent to point out that the Appellant/Claimant has tendered document, Annexure-A to L, in support of his claim and all the documents have been issued on the address of Jhuggi No. A-325 of his parents. No documents have been issued on the address of first floor of Jhuggi No. A-315 regarding which the Appellant/Claimant is claiming allotment from DDA. This shows that the present Appellant/Claimant dishonestly & fraudulently had concocted a wrong a false storey that he was living on the first floor of Jhuggi No. A-315 of Namita Mandal. Thus all 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. 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. 385/58/75.1/1154 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: 501 of 2023

Date of Institution: 01.12.2022

Date of Order: 10.02.2023

Present: Appellant/ Claimant Sanjeevani W/o Sanjeev Kumar D/o Veer Pal

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. D-107, 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. D-107 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

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allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/64/86.1/1440 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 501 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 31.01.2023. 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. D-107 was found to exist on the first 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 & separate Ration Card, on the cutoff date of 01.01.2015 and 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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7. The statement of the Appellant/ Claimant, Sanjeevani, has been recorded before us on 31.01.2023, wherein she has stated that her in-laws, Ram Bhajan & Suman, are having two sons, namely, Munish and Sanjeev and three daughters, namely, Meena, Madhuri & Bharti. All the children are married. Munish, Madhiri & Bharti are living in Uttar Pradesh whereas Sanjeev & Meena are living in Bhoomiheen Camp. Meena is married with Rajesh. Sanjeevani is married with Sanjeev and having two children Lakshmi and Niyati. Ram Bhajan had died in 2021 and Suman had died in 2018.

8. The Appellant/ Claimant has stated that her sister-in-law, Meena, is married with Rajesh and they are having a double storey Jhuggi No. D-107. Meena along with her family has been living on the ground floor whereas Sanjeev along with his wife Sanjeevani (Appellant/ Claimant) & two children, Lakshmi & Niyati, were living on rent on the first floor of Jhuggi No. D-107. DDA has made allotment in favour of Meena against Jhuggi No. D-107. These facts are not disputed by DDA.

9. The Appellant/ Claimant has stated that initially Sanjeevani (Appellant/ Claimant) along with her husband Sanjeev & two children, Lakshmi & Niyati, were living on rent on the first floor of Jhuggi No. D-107. There is another double storey Jhuggi No. D-109/2. Meena W/o Rajesh has purchased the first floor of that Jhuggi No. D-109/2 whereas one Neeru was living on the ground floor of the said Jhuggi No. D-109/2. The Appellant/ Claimant had shifted from Jhuggi No. D-107 to the first floor of Jhuggi No. D-109/2 and started living there as tenant of Meena W/o Rajesh. The Appellant/ Claimant has specifically stated that they have been making payment of rent regularly to Meena W/o Rajesh. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. D-109/2. But in the survey records her Jhuggi number is mentioned to be Jhuggi No. D-107 whereas she has claimed allotment against the first floor of the Jhuggi No. D-109/2. The Appellant/Claimant has stated that her claim has been wrongly rejected by DDA and aggrieved by the same she has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure F, and prayed that DDA be directed to make allotment in her favour.

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10. It is also pointed out that DDA has furnished the survey records along with three video clips, which were played before the Appellant/Claimant when her statement was recorded before us on 31.03.2023 wherein she has stated that in one of the video clip she (Sanjeevani- Appellant/Claimant) is seen on the first floor of Jhuggi No. D-109/2 and she is also heard of making a statement that she is tenant on the first floor of Jhuggi No. D-109/2.

11. The admission of the Appellant/ Claimant is a clincher piece of evidence and it shows that initially Sanjeevani (Appellant/ Claimant) along with her husband Sanjeev & two children, Lakshmi & Niyati, were living on rent on the first floor of Jhuggi No. D-107 belonging to her sister-in-law, Meena W/o Rajesh. But subsequently Meena W/o Rajesh had purchased the first floor of Jhuggi No. D-109/2 and accordingly they had shifted to the first floor of Jhuggi No. D-109/2 and started living there as tenant of Meena W/o Rajesh. The Appellant/ Claimant has categorically stated that they have been paying the rent regularly. But it is pertinent to point out that the Appellant/ Claimant has not mentioned the date, month & year of purchasing of the first floor of Jhuggi No. D-109/2 and also specifically from when they have occupied the same as tenant. The fact remains that the Appellant/ Claimant along with her family was not living separately & independently but they were living as tenant under her sister-in-law, Meena W/o Rajesh on the cutoff date of 10.01.2015.

12. DDA has furnished the survey records along with three video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 31.03.2023 wherein she has stated that in one of the video clip Rajesh, who is the husband of her sister-in-law, Meena is seen in Jhuggi No. D-107 and in the second video clip Neeru is seen on the ground floor of Jhuggi No. D-109/2 and in the third video clip she (Sanjeevani- Appellant/Claimant) is seen on the first floor of Jhuggi No. D-109/2 and she is also heard of making a statement that she is tenant on the first floor of Jhuggi No. D-109/2. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca double storey Jhuggi No. D-109/2 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/ Claimant & her family lived as tenant of her sister-in-law, Meena W/o Rajesh, on the first floor of the said Jhuggi No. D-109/2, which was used by for residential purposes but the Appellant/

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Claimant has claimed allotment form DDA against Jhuggi no. D-107 where they were living in the past.

13. Accordingly, we have no hesitation in holding that the Jhuggi No. D-109/2 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 lived on rent on the first floor of the said Jhuggi on the cutoff date of 01.01.2015, which was used by 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 a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and 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.

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 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 she was not having a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and 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. 385/64/86.1/1440 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. 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. 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 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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23. The Appellant/ Claimant has categorically admitted that she does not posses a Voter ID Card even till today. Accordingly, the question of her name appearing in at least on 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 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 at least 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, she does not fulfill the eligibility criteria as per the guidelines issued by DDA

24. The Appellant/Claimant has tendered the Voter ID Card of her husband Sanjeev Kumar bearing number ARE 2617801 (Annexure-C), which has been issued on 30.01.2023, much after the cutoff date of 01.01.2015. This shows that neither the present Appellant/Claimant nor her husband Sanjeev Kumar was having a Voter ID Card on the cut off date of 01.01.2015.

25. The Appellant/Claimant has tendered her Aadhar Card (Annexure-A) & Pan Card (Annexure-B), Aadhar Card of her husband Sanjeev Kumar (Annexure-D), Electricity Bill (Annexure-E) and Ration Card (Annexure-F). The Electricity Bill (Annexure-E) shows that the electricity connection has been taken on 08.10.2012 by Meena on the ground floor of Jhuggi No. D-109/2. Further Ration Card (Annexure-F) shows that it has been issued in the name of Appellant/Claimant on the address of Jhuggi No. D-109/2 on 18.06.2015, much after the cut off date of 01.01.2015. The documents, Annexure-A, Annexure-B and Annexure-D 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 because the Appellant/ Claimant was not having a Voter ID Card & Ration Card on the cut off date of 01.01.2015 and 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.

26. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card & Ration Card on the cut off date of 01.01.2015 and 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. The documents, Annexure-A to Annexure-F, 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. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and 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. Therefore, she 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 her claim. There is no infirmity and illegality in the impugned order bearing No. 385/64/86.1/1440 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.

(Ranbir Singh) 10/2/2023	(Satish Ahlawat) 10/2/2023	(Rachna Tiwary) 10/2/2023
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: 551 of 2023

Date of Institution: 06.12.2022

Date of Order: 10.02.2023

Present: Appellant/ Claimant Sundari Devi W/o Abhimanyu Sharma D/o Maha dev

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-679, 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-679 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

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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. 385/10/97.G/720 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 551 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 03.02.2023. 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-679 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 ID 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 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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7. The statement of the Appellant/ Claimant, Sundari Devi, has been recorded before us on 03.02.2023, wherein she has stated that she is married with Abhimanyu Sharma and having two sons namely, Pawan & Lalman and four daughters namely, Kusum, Meera, Manju and Laxmi. All the children are married. Kusum & Laxmi are living in their respective matrimonial home in Gonda, U.P. whereas Meear & Manju are living in their matrimonial homes in Nangloi. Pawan is married with Sunaina and having two children, namely, Lucky & Palak. Lalman is married with Rajkumari and having three children, namely, Avinash, Pooja & Arti. Pawan and Lalman with their families are living in Sangam Vihar.

8. The Appellant/ Claimant has stated that she along with her husband is living in a single storey Jhuggi No. B-679. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi but her claim has been wrongly rejected by DDA and aggrieved by the same she has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure H, and prayed that DDA be directed to make allotment in her favour.

9. DDA has furnished the survey records along with two video clips. These video clips were played before the Appellant/Claimant when her statement was recorded before us on 03.02.2023 wherein she has stated that in the video clips she (Sundari-Appellant/Claimant) is seen standing in the Jhuggi in her Jhuggi No B-679 regarding which she is claiming allotment from DDA. Thus the statement of the Appellant/Claimant as well as the survey records/video clip has duly proved that a single storey Jhuggi of the Appellant/Claimant was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/ Claimant used the said Jhuggi No. B-679 for residential purposes.

10. Accordingly, we have no hesitation in holding that the Jhuggi 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 & her family has been using the said Jhuggi No.B-679 for residential purposes.

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11. Now we shall 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.

12. 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.

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**
> **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,

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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."

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

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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.

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 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.

16. The Appellant/Claimant has admitted that she does not possess the Voter ID Card even till today. She had applied for issuance of the same by making application dated 23.12.2022 (Annexure-A). The admission of the Appellant/Claimant is a clincher piece of evidence thereby showing that she does not possess the Voter ID Card till today. 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 accordingly her name appearing in at least on 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 srise. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

17. The Appellant/Claimant has tendered her Aadhar Card (Annexure-B), Pan Card (Annexure-C), Old Ration card (Annexure-D), new Ration card (Annexure-E) as well as the Voter ID Card (Annexure-F), Aadhar Card (Annexure-G) & Voter List of the year 2014 (Annexure-H) of Abhimanyu Sharma. The documents, Annexure-B 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 the Appellant/ Claimant was not having the requisite mandatory document, i.e., a valid Voter ID Card, on the cutoff date of 01.01.2015 and 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. Therefore, she 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 Voter ID Card on the cut off date of 01.01.2015 and she does not possess the Voter ID Card till

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today 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. 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. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a valid Voter ID Card, on the cutoff date of 01.01.2015 and 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. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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 her claim. There is no infirmity and illegality in the impugned order bearing No. 385/10/97.G/720 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.

19/4/2023	10/4/2023	10/4/23
(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: 282 of 2023

Date of Institution: 25.11.2022

Date of Order: 13.02.2023

Present: Appellant/ Claimant Tulsi Biswas Widow of Biren Biswas D/o Mihir 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 she is living in Jhuggi bearing No. A-325/1, 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 records it was found by the EDC that the ground floor & upper floor of the Jhuggi No. A-325 are not separate & independent dwelling units but were found to be part & parcel of single dwelling unit for all purposes and accordingly the Appellant/ Claimant was not found entitled for alternate allotment against the upper floor as per the policy guidelines because one allotment against ground floor of Jhuggi No. A-325 has already been made in favour of her mother-in-law, Suneeti Biswas. Hence, the

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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. 385/60/019.1-A/1249 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 282 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 02.02.2023. 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 ground floor & upper floor of the Jhuggi No. A-325 were found not to be separate & independent dwelling units but were found to be part & parcel of single dwelling unit for all purposes and accordingly the Appellant/ Claimant was not found entitled for alternate allotment against the upper floor as per the policy guidelines because one allotment against ground floor of Jhuggi No. A-325 has already been made in favour of her mother-in-law, Suneeti Biswas. 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/Units 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.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant for claiming allotment against the first floor. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant

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was living on the first floor of Jhuggi bearing No. A-325 and having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further as to whether the ground floor & upper floor of Jhuggi bearing No. A-325 are separate & independent dwelling units or they are part & parcel of single dwelling unit for all purposes and when one allotment against Jhuggi bearing No. A-325 has already been made in favour of her mother-in-law, Suneeti Biswas then whether second allotment in favour of the present Appellant/Claimant is permissible against the said Jhuggi as per policy of DDA.

8. The statement of the Appellant/ Claimant, Tulsi Biswa, has been recorded before us on 02.02.2023, wherein she has stated that her in-laws, Nityanand & Suniti, are having four sons, namely, Biren, Narender, Billu & Gokul and one daughter, namely, Laxmi.

9. The Appellant/Claimant has stated that her family was having a double storey Jhuggi No. A-325 comprising of one room on the ground floor and two rooms on the first floor. The Appellant/Claimant has further stated adjoining to the abovementioned Jhuggi No. A-325 there is another double storey Jhuggi bearing No. A-315. Furthermore, Namita, who hails from the village of her mother-in-law, Suneeti, lives on the ground floor of the said Jhuggi No. A-315 and regarding that DDA has made allotment in favour of Namita against the said Jhuggi. Whereas Gokul S/o Nityanand lives on the first floor of Jhuggi No. A-315 but his claim has been rejected by DDA. These facts are not disputed by DDA. However, it is pointed out that the Appeal No. 280 of 2023 filed by Gokul and the present Appeal No. 282 of 2023 shall be decided separately on their individual merits, as the subject matter is different.

10. The Appellant/Claimant has stated that her family was having a double storey Jhuggi No. A-325 comprising of one room on the ground floor and two rooms on the first floor. The rooms on the first floor was not having independent access from the gali but the wooden ladder placed inside the room on the ground floor was used for going to the first floor. Thus the admission of the Appellant/Claimant is a clincher piece of evidence and it shows that the upper floor was not having independent access from the gali but the wooden ladder placed inside the room on ground floor has been used for going to the upper floor thereby making both the floors to be part & parcel of the same dwelling unit.

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11. The Appellant/Claimant has stated that her mother-in-law, Suneeti widow of Nityanand, along with the family of one of her son Narender with his wife Rupali & children, Neha & Puja, has been living in the room on the ground floor and regarding that DDA has made allotment in favour of her mother-in-law Suneeti against the said Jhuggi. The Appellant/Claimant has further stated that Billu along with his wife Mona and children, Vikram & Nupur, has been living in one of the room on the first floor of Jhuggi No. A-325 and regarding that DDA has made allotment in favour of Mona W/o Billu against the said Jhuggi. These facts are not disputed by DDA.

12. The Appellant/Claimant Tulsi widow of Biren Biswas has further stated that she along with her children, Pinki, Ajay & Vijay, has been living in the second of room on the first floor of Jhuggi No. A-325. The Appellant/Claimant has stated that the rooms on the first floor was not having independent access from the gali but the wooden ladder placed inside the ground floor room of Suneeti was used for going to the first floor regarding which she is claiming allotment from DDA. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi but her claim has been wrongly rejected by DDA and aggrieved by the same she has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure H, and prayed that DDA be directed to make allotment in her favour.

13. DDA has furnished the survey records along with five video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 02.02.2023 wherein she has stated that in the first two video clips her mother-in-law, Suneeti, is seen standing in her Jhuggi on the ground floor and further a wooden ladder going from inside the room of Suneeti to the upper floor is clearly seen. In two other video clips Mona W/o Billu is seen in her Jhuggi on the first floor and further in one video clip she (Tulsi- Appellant/Claimant) is seen in her Jhuggi on the first floor.

14. The Appellant/Claimant has specifically stated that the rooms on the first floor were not having independent access from the gali but the wooden ladder placed inside the room of Suneeti on the ground floor was used for going to the rooms on the first floor regarding which the Appellant/Claimant and Mona W/o Billu are claiming allotment from DDA. Thus

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the admission of the Appellant/Claimant is a clincher piece of evidence and further the admission has been duly corroborated by the survey records/video clips and it is proved that a pucca double storey Jhuggi of the family of the Appellant/Claimant bearing Jhuggi No. A-325 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015. But the first floor is not having access from the main gali but there is wooden ladder placed inside the room of Suneeti on the ground floor for going to the rooms of Tulsi (Appellant/Claimant) & Mona W/o Billu on the first floor. Thus the ground & first floors are the part & parcel of the same dwelling unit bearing Jhuggi No. A-325 regarding which DDA has already made allotment in favour of Suneeti. Two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA. But the Appellant/Claimant in collusion with his family members has tried to get maximum allotments from DDA by hook or crook.

15. Accordingly, we have no hesitation in holding that the Jhuggi No. A-325 is a pucca double storey structure and its ground & first floors are the part & parcel of the same dwelling unit bearing Jhuggi No. A-325 regarding which DDA has already made allotment in favour of Suneeti. Two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

16. As pointed out above, the Appellant/Claimant has stated that her family was having a double storey Jhuggi No. A-325 comprising of one room on the ground floor and two rooms on the first floor. Against the rooms on the first floor the present Appellant/Claimant as well as Mona W/o Billu have claimed allotment from DDA. The claim of the present Appellant/Claimant was rejected by EDC but the claim of Mona W/o Billu was allowed thereby making allotment in her favour. We have already held hereinabove that the rooms on the first floor was not having independent access from the gali but the wooden ladder placed inside the room on the ground floor was used for going to the first floor. Thus the ground & first floors are the part & parcel of the same dwelling unit bearing Jhuggi No. A-325 regarding which DDA has already made allotment in favour of Suneeti and accordingly two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA. Therefore, DDA is hereby directed to review the case of Mona

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W/o Billu and pass appropriate orders as far as the eligibility of Mona W/o Billu under the policy guideline of DDA is concerned.

17. 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.

18. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-H, in support of 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 Ration Card issued. 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. 385/60/019.1-A/1249 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.

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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

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 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

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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 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. 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 & separate Ration Card, on the cutoff date of 01.01.2015.

26. 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 2014 (Annexure-F), Voter List of the year 2015 (Annexure-G) and Voter List of the year 2019 (Annexure-H).

27. The Appellant/Claimant has tendered her two Voter ID Cards bearing number CXY 1061118 (Annexure-A) and ARE 1140144 (Annexure-B). The first Voter ID Card, has been issued on 05.03.2002 and the second Voter ID Card has been issued on 27.10.2008. This shows that both the Voter ID Cards have been issued much prior to the cutoff date of 01.01.2015. Furthermore, her name appears at Sl. No. 557 in the Voter List of the year 2014 (Annexure-F), at Sl. No. 580 in the Voter List of the year 2015 (Annexure-G) and at Sl. No. 618 in the Voter List of the year 2019 (Annexure-H) and in all the Voter Lists her Voter ID Card number is recorded to be ARE 1140144 (Annexure-B). 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 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.

28. The Appellant/Claimant has tendered her Ration Card (Annexure-E), which has been issued in the name of the Appellant/Claimant on 03.05.2014, much prior to the cutoff date of 01.01.2015.

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29. The material placed on file shows that the Appellant/ Claimant was having a Voter ID Card and also a separate Ration Card on the cutoff date of 01.01.2015 and 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. But inspite of that 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 the ground & first floors of the Jhuggi No. A-325/1 are not found to be separate & independent dwelling units but are found to be part & parcel of the same dwelling unit regarding which DDA has already made allotment in favour of her mother-in-law Suneeti and accordingly two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA. Therefore, the Appellant/ Claimant cannot claim allotment against the first floor of Jhuggi No. A-325/1 and she 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. 385/60/019.1-A/1249 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

31. Before parting this order, in the light of our discussion in detail in Para No. 16 above, DDA is hereby directed to review the case of Mona W/o Billu and pass appropriate orders as far as the eligibility of Mona W/o Billu for alternative allotment under the policy of DDA is concerned.

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.)** **EXPERT MEMBER**

MEMBER **CHAIRMAN**

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: 518 of 2023

Date of Institution: 02.12.2022

Date of Order: 13.02.2023

Present: Appellant/ Claimant Amit Kumar Pathak S/o Mohitosh

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-281, 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-281 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. 385/37/16.1/997 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the

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same, the present Appeal No. 518 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 01.02.2023. 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. C-281 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.

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.

7. The statement of the Appellant/Claimant Amit Kumar Pathak has been recorded before us on 01.02.2013, wherein he has stated that he is having one sister, namely, Deepika. His

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biological parents Mahitos & Kalpana had abandoned them when they were toddlers and accordingly Paritosh Sarkar & Kalpana Sarkar took care of them as foster parents. Paritosh Sarkar is having one daughter, namely, Moitri, who is married and living in her matrimonial home. Whereas both Amit Kumar Pathak (Appellant/Claimant) & Deppika are unmarried and living with the family of Paritosh Sarkar.

8. The Appellant/Claimant has stated that his foster parents Paritosh Sarkar & Kalpana Sarkar are having a double storey Jhuggi No. C-286 and regarding the ground floor of the said Jhuggi Kalpana had got allotment from DDA. These facts are not disputed by DDA.

9. The Appellant/Claimant has further stated that he along with his sister Deepika is living on the first floor of the said Jhuggi bearing Jhuggi No. C-281 but they were having a joint kitchen with Paritosh Sarkar & Kalpana Sarkar on the ground floor. The Appellant/Claimant has sought allotment against the first floor of the said Jhuggi bearing Jhuggi No. C-281 but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make alternative allotment in his favour as per the policy guidelines issued by DDA.

10. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that both the brother and sister, Amit & Deepika, are unmarried and they are having joint kitchen with their foster parents Paritosh Sarkar & Kalpana Sarkar. Therefore, it shows that they (Amit & Deepika) were not living separately & independently but they were living jointly with their foster parents.

11. DDA has furnished the survey records along with two video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 01.02.2023 wherein he has stated that in the first video clip Kalpana Sarkar is seen in her Jhuggi on the ground floor and one room & a kitchen is also seen in the video and further she is also heard saying that four people are staying together in the double storey Jhuggi. The four persons means Paritosh Sarkar, Kalpana Sarkar, Amit & Deepika because Moitri is living in her matrimonial home. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey pucca Jhuggi of

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Paritosh Sarkar & Kalpana Sarkar was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 but the Appellant/Claimant and his sister Deepika were not living separately & independently but they were living jointly with their foster parents on the cut off date of 01.01.2015.

12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-281 in Bhoomiheen Camp is a pucca structure and it was in existence much prior to the cutoff date of 01.01.2015 and further Paritosh Sarkar & Kalpana Sarkar were living on the ground floor whereas Amit (Appellant/ Claimant) with her sister Deepika was living on the ground floor but for all purposes they were living jointly with their foster parents Paritosh Sarkar & Kalpana Sarkar. DDA has already made allotment in favour of Kalpana Sarkar W/o Paritosh Sarkar against Jhuggi No. C-281 and accordingly two allotments against one dwelling unit is not permissible as per guidelines of DDA because as per our discussion above the present Appellant/Claimant Amit Kumar Pathak along with his sister Deepika was living jointly with their foster parents Paritosh Sarkar & Kalpana Sarkar on the cutoff date of 01.01.2015.

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 & 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.

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-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 cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has

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claimed allotment against the upper floor but he is not having a separate Ration Card. 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. 385/37/16.1/997 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.
> 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

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.

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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 appear in at least 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 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.

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22. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 2556280 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C).

23. The Appellant/Claimant has tendered the Voter ID Card bearing number ARE 2556280 (Annexure-A), which has been issued on 22.10.2021, much after the cut off date of 01.01.2015. Accordingly, the question of his name appearing in at least on 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 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 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, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

24. The Appellant/Claimant has admitted that he is not having a separate Ration Card on the address of first floor of the Jhuggi No. C-281 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 mandatory for the upper floor.

25. The Appellant/ Claimant has also tendered his Passport (Annexure-D), SSC Certificate (Annexure-E), SSC Mark Sheet (Annexure-F), BA Degree (Annexure-G), Pass Book of PNB (Annexure-H), Electricity Bill (Annexure-I) as well as the Aadhar Card & Pan Card (Annexure-J and K) of his sister Deepika. The Electricity Bill (Annexure-I) shows that the Electricity connection has been taken on 24.0.2006 in the name of his foster parents Paritosh Sarkar on his Jhuggi on the ground floor. There was no separate electricity connection for the first floor. The documents, Annexure-D 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 Voter ID Card & separate Ration Card on the cut-off date of 01.01.2015 and his name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore,

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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 the Voter ID Card on the cutoff date of 01.01.2015 because his Voter ID Card bearing number ARE 2556280 (Annexure-A), has been issued on 22.10.2021, much after the cut off 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 his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having Voter ID Card & separate Ration Card on the cut-off date of 01.01.2015 and his name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. 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 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. 385/37/16.1/997 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: 593 of 2023

Date of Institution: 07.12.2022

Date of Order: 13.02.2023

Present: Appellant/ Claimant Sangeeta Parjapati W/o Ambika Parjapati

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-562, 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-562 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. 385/63/073.G/391 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by

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the same, the present Appeal No. 593 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 08.02.2023. 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-562 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 ID 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 appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

7. The statement of the Appellant/ Claimant Sangeeta Parjapati has been recorded before us on 08.02.2023, wherein she has stated that she is married with Ambika Parjapati and

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having two sons namely, Ankit & Aman. Both the children are unmarried. Ambika Parjapati had died on 13.01.2019 and his death certificate is Annexure-D.

8. The Appellant/ Claimant has stated that previously they were living in their single storey Jhuggi No. C-562. Her husband was a vegetable vendor in his lifetime. In order to provide better education to their sons they had shifted to House No. 216A/18, Tuglakabad in the year 2001 and Jhuggi No. C-562 was given to Panna Parjapati, who is the son her husband's sister. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi No. C-562 but her claim has been wrongly rejected by DDA and aggrieved by the same she has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure J, and prayed that DDA be directed to make allotment in her favour.

9. DDA has furnished the survey records along with two video clips. These video clips were played before the Appellant/Claimant when her statement was recorded before us on 08.02.2023 wherein she has stated that in the two video clips she (Sangeeta-Appellant/Claimant) is seen standing in her Jhuggi No C-562 regarding which she is claiming allotment from DDA and her kitchen is also seen.

10. The admission of the Appellant/ Claimant is a clincher piece of evidence and it shows that the Appellant/ Claimant along with her husband & children had permanently shifted to House No. 216A/18, Tuglakabad in the year 2001 and since then they are living there. Therefore, the Appellant/ Claimant was not living in the single storey Jhuggi No. C-562, Bhoomiheen Camp on the cutoff date of 01.01.2015. But by playing fraud & misrepresentation the Appellant/ Claimant had somehow succeeded in getting the survey/videography conducted inspite of the fact that the Appellant/ Claimant was not living in Bhoomiheen Camp. So merely getting survey/videography conducted does not create any right, title & entitlement in favour of the Appellant/ Claimant to claim allotment from DDA.

11. As mentioned above, the Appellant/ Claimant has categorically stated that previously they were living in their single storey Jhuggi No. C-562 but in order to provide better education to their sons they had shifted to House No. 216A/18, Tuglakabad in the year 2001 and the

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possession of Jhuggi No. C-562 was handed over to Panna Parjapati, who is alleged to be son of her husband's sister. However, it is not disclosed as to in what capacity the possession was delivered to Panna Parjapati as to whether the Jhuggi was sold or leased or rented. It is pertinent to point out that the Appellant/ Claimant could not establish her relationship with Panna Parjapati because she could not give the names of the parents of Panna Parjapati even though they are very close relative. The Appellant/ Claimant was also not sure about the name of the wife of Panna Parjapati because she has stated that perhaps her name is Rita. The Appellant/ Claimant also could not satisfactorily explain as to how she got the survey/videography conducted even though she was not living there because as per her own admission Panna Parjapati happened to be living in Jhuggi No. C-562 since 2001 and more specifically on the cutoff date of 01.01.2015 she was not living in Bhoomiheen Camp. But in order to claim allotment from DDA the Appellant/ Claimant had fraudulently managed to get the survey/videography conducted even though at the relevant time she was not living in Bhoomiheen Camp but was admittedly continuing living in House No. 216A/18, Tuglakabad since 2001. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

12. Accordingly, we have no hesitation in holding that the Jhuggi No. C-562 in Bhoomiheen Camp is a pucca single storey structure and it was in existence much prior to the cutoff date of 01.01.2015 but the Appellant/ Claimant & her family has not been living in the said Jhuggi No. C-562 since 2001.

13. Now we shall 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.

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

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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**
>
> **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

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- 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 01-01-2015) & also in the year of survey.

18. The Appellant/Claimant has tendered her Voter ID Card No. SBC 0156331 issued on 21.10.2008 on the address of House No. 216A/18, Gali No. 20, Tughlakabad Extension, Delhi. The Appellant/Claimant has admitted that she does not possess the Voter ID Card issued on the address of Jhuggi No. C-562 regarding which she is claiming allotment from DDA. The admission of the Appellant/Claimant is a clincher piece of evidence thereby

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showing that she does not possess the Voter ID Card issued on the address of Jhuggi No. C-562 regarding which she is claiming allotment from DDA. Therefore, the Voter ID Card (Annexure-A) is not relevant. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the address of Jhuggi No. C-562 on the cut off date of 01.01.2015 and her name also does not appear on the address of Jhuggi No. C-562 in at least 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, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

19. The Appellant/Claimant has tendered her Aadhar Card (Annexure-B), Voter ID Card (Annexure-C) of her husband Ambika, Death Certificate (Annexure-D) of her husband Ambika, RC of two wheeler (Annexure-E), Driving License (Annexure-G) of her husband Ambika, Electricity Bill (Annexure-H), LPG Bill (Annexure-I) and Ration Card (Annexure-J). The documents, Annexure-B 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 because the Appellant/ Claimant was not having the requisite mandatory document, i.e., a valid Voter ID Card, on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. C-562 regarding which she is claiming allotment from DDA and her name also does not appear on the address of Jhuggi No. C-562 in at least 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, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

20. The material placed on file shows that the Appellant/ Claimant & her family has not been living in the said Jhuggi No. C-562, regarding which she is claiming allotment from DDA, since 2001 and more specifically she was not living in Jhuggi No. C-562 on the cutoff date of 01.01.2015 and further the Appellant/ Claimant was not having the requisite mandatory document, i.e., a valid Voter ID Card, on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. C-562 regarding which she is claiming allotment from DDA and her name also does not appear on the address of Jhuggi No. C-562 in at least 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, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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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. 385/63/073.G/391 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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(Ranbir Singh)
Jt. Secretary (Retd.) GOI
MEMBER

13/2/2023

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

13/2/23

(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: 113 of 2022

Date of Institution: 22.11.2022

Date of Order: 14.02.2023

Present: Appellant/ Claimant Prashant Das S/o Niranjan 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-253, 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-253 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. 385/37/102.1/1037 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 113 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 06.02.2023. 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-253 was found to exist on the upper floor but he 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 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 separate Ration Card, on the cutoff date of 01.01.2015.

7. The statement of the Appellant/Claimant has been recorded before us on 06.02.2023, wherein he has stated that his parents, Niranjan Das & Savitri, are having two sons, Prashant

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7. The statement of the Appellant/Claimant has been recorded before us on 06.02.2023, wherein he has stated that his parents, Niranjan Das & Savitri, are having two sons, Prashant Das (Appellant/Claimant) & Jayant. Niranjan Das had died 26 years ago and Savitri had died 12 years ago. Prashant Das is married with Madhu Das and having two children, Piyush & Payal. Jayant is married with Roma and having children. The children of Jayant are living in Faridabad.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. B-253. His brother Jayant along with his wife Roma is living on the ground floor of Jhuggi No. B-253 and regarding that DDA has made allotment in favour of Roma. These facts are not disputed by DDA.

9. The Appellant/Claimant has also stated that he along with his wife Madhu Das & both the children, Piyush & Payal, is living on the first floor of the said Jhuggi bearing Jhuggi No. B-253. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. B-253 but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-P, in support of his claim and prayed that DDA be directed to make alternative allotment in his favour as per the policy guidelines issued by DDA.

10. DDA has furnished the survey records along with nine video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 06.02.2023 wherein he has stated that in the six video clip Roma W/o Jayant is seen in her Jhuggi on the ground floor and in three video clips he (Prashant- Appellant/Claimant) is seen in his Jhuggi on the first floor Jhuggi No. B-253. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca double storey Jhuggi of the family of the Appellant/Claimant bearing Jhuggi B-253 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the first floor of the said Jhuggi was used by the Appellant/ Claimant & his family for residential purposes.

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11. Accordingly, we have no hesitation in holding that the Jhuggi No. B-253 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 have been using the first floor of the said Jhuggi No. B-253 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 & 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.

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-P, 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 was not having a Voter ID Card & 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. 385/37/102.1/1037 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:

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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.

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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

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:

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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."

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 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 Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015.

21. The Appellant/Claimant has tendered his Voter ID Card bearing number CXY 1072867 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Pass Book of SBI (Annexure-D), Passport (Annexure-E), Driving License (Annexure-F), Electricity Bill

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(Annexure-J), Voter List of the year 2012 (Annexure-K), Voter List of the year 2013 (Annexure-L), Voter List of the year 2014 (Annexure-M), Voter List of the year 2015 (Annexure-N) and Voter List of the year 2019 (Annexure-O).

22. The Appellant/Claimant has tendered the Voter ID Card bearing number CXY 1072867 (Annexure-A), which has been issued on 06.03.2002, much prior to the cut off date of 01.01.2015. His name appears at Sl. No. 750 in the Voter List of the year 2012 (Annexure-K), at Sl. No. 750 in the Voter List of the year 2013 (Annexure-L), at Sl. No. 624 in the Voter List of the year 2014 (Annexure-M), at Sl. No. 642 in the Voter List of the year 2015 (Annexure-N) and at Sl. No. 649 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 his name also appear in at least 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. The Appellant/ Claimant tendered his Ration Card (Annexure-P) in which the name of his family members have been mentioned. But the Ration Card (Annexure-P) has been issued on 12.06.2015, much after the cutoff date of 01.01.2015. This shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 on the address of the first floor of the said Jhuggi No. B-253 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.

24. The Appellant/ Claimant has also tendered the Voter ID Card ARE 1653335 (Annexure-G) issued on 15.03.2013, Aadhar Card (Annexure-H) & Pan Card (Annexure-I) of his wife Madhu Das. The documents, Annexure-G 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 separate Ration Card on the cut-off date of 01.01.2015.

25. 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,

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title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant is claiming allotment from DDA against the upper floor but he is not having a separate Ration Card on the cutoff date of 01.01.2015. 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 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. 385/37/102.1/1037 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: 107 of 2022

Date of Institution: 22.11.2022

Date of Order: 14.02.2023

Present: Appellant/ Claimant Anju W/o Ajay

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-594, 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-594 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,

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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. 385/27/14.2/917 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 107 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 01.02.2023. 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-594 was found to exist on the second 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.

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

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documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015.

7. The statement of the Appellant/ Claimant, Anju, has been recorded before us on 01.02.2023, wherein she has stated that her in-laws, Sish Pal & Maya, are having two sons, namely, Subhash & Ajay and two daughters, namely, Sujata & Geetu. Sishpal has expired in the year 2006. All the children are married. Sujata & Geetu are living in their respective matrimonial homes in village Tigri and NOIDA, respectively. Subhash is married with Nirmala and having three children, namely, Sumit, Nisha & Nitin. Subhash had expired in the year 2020. Ajay is married with Anju (Appellant/Claimant) and having two sons, Rishi & Anuj.

8. The Appellant/ Claimant has stated that her family is having a triple storey Jhuggi No. B-594 and it comprised of one room each on all the three floors. Her mother-in-law, Maya, is living on the ground floor of the said Jhuggi No. B-594 and regarding that DDA has made allotment in favour of Maya. These facts are not disputed by DDA.

9. The Appellant/ Claimant has also stated that Nirmala widow of Subhash along with her three children, Sumit, Nisha & Nitin, is living on the first floor of the said Jhuggi No. B-594 and Nirmala has sought allotment from DDA. But her claim has been rejected by DDA and aggrieved by the same Nirmala has filed Appeal No. 115 of 2022 before the Appellate Authority for redressal.

10. The Appellant/ Claimant has further stated that she along with her husband Ajay & two sons, Rishi & Anju, is living on the second floor of the said Jhuggi No. B-594 and has sought allotment from DDA. But her claim has been rejected by DDA and aggrieved by the same Anju (Appellant/Claimant) has filed Appeal No. 107 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure H, and prayed that DDA be directed to make allotment in her favour.

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11. It is pointed out that both the Appeals No. 107 of 2022 and 115 of 2022 shall be decided separately on their respective merits.

12. DDA has furnished the survey records along with eleven video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 01.02.2023 wherein she has stated that in the five video clip her mother-in-law, Maya, is seen in her Jhuggi on the ground floor and in the four video clips Nirmala is seen in her Jhuggi on the first floor whereas in two video clips she (Anju-Appellant/Claimant) is seen in her Jhuggi on the second floor. 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. B-594 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the second floor of the said Jhuggi for residential purposes.

13. Accordingly, we have no hesitation in holding that the Jhuggi No. No. B-594 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 the Appellant/Claimant has been 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 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 second floor as per the policy guidelines issued by DDA.

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

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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 Voter ID Card & 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. 385/27/14.2/917 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 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.

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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. 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."

19. 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.

20. 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.

21. 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,

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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 entitle for alternative allotment.

22. 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.

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 (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

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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

24. 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.

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, 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 separate Ration Card, on the cutoff date of 01.01.2015.

26. At the very outset 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.

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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 second floor as per the policy guidelines issued by DDA.

28. The Appellant/Claimant has tendered her Voter ID Card No. ARE 2505436 (Annexure-A), Aadhar Card (Annexure-B) and Pan Card (Annexure-C).

29. It is pointed out that the Voter ID Card bearing No. ARE 2505436 (Annexure-A) has been issued on 29.01.2020, much after the cutoff date of 01.01.2015. Accordingly, the question of her name appearing in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and 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. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

30. The Appellant/Claimant has tendered the Voter ID Card No. CXY 1160936 (Annexure-D), Aadhar Card (Annexure-E), Pan Card (Annexure-F) and Driving License (Annexure-G) of her husband Ajay as well as the Ration Card (Annexure-H).

31. It is pointed out that the Voter ID Card bearing No. CXY 1160936 (Annexure-D) has been issued on 27.10.2008, much prior the cutoff date of 01.01.2015. The Driving License (Annexure-G) shows that it has been issued on 06.08.2008. The Ration Card (Annexure-H) shows that it has been issued in favour of her mother-in-law, Maya, and the names of the family members, have been issued but the name of the present

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Appellant/Claimant has been conspicuously missing. Furthermore, the date of issuance of this Ration Card (Annexure-H) has not been mentioned. The fact remains that the Appellant/Claimant was not having separate Ration card inspite of the fact that she is claiming allotment against upper floor. The documents, Annexure-D 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 the Appellant/ Claimant was not having a Voter ID Card & separate Ration Card on the cut off date of 01.01.2015 and 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.

32. 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 as her Voter ID Card bearing number ARE 2505436 (Annexure-A) has been issued on 29.01.2020, much after the cutoff date of 01.01.2015, and 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 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. 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. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. B-594 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 valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and 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. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

33. 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 her claim. There is no infirmity and illegality in the impugned order bearing No. 385/27/14.2/917 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: 148 of 2022

Date of Institution: 22.11.2022

Date of Order: 14.02.2023

Present: Appellant/ Claimant Savita W/o Mohd. Nurul D/o Ram 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. C-345, 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-345 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. 385/9/04.G/1675 dated

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07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 148 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 03.02.2023. 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. C-345 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.

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 Voter ID Card, on the cutoff date of 01.01.2015.

7. The statement of the Appellant/Claimant has been recorded before us on 03.02.2023, wherein she has stated that her parents, Ram Prasad & Parwati, are having two sons, namely, Rajesh & Mukesh and three daughters, namely, Anita, Savita (Appellant/Claimant) & Sumitra. All the children except Sumitra are married. Rajesh is married with Poonam but

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her whereabouts are not known and accordingly he contracted second marriage with Sunita and having three children, namely, Sunayana, Krishna & Yuv. Mukesh is married with Reena and having two children, namely, Roshan & Ria. Savita has married with Nurul in the year 2012. She is the second wife of Nurul and having one son Arun from the wedlock.

8. The Appellant/Claimant has stated that her family is having a double storey Jhuggi bearing No. A– 28. Her parents, Ram Prasad & Parwati, are living on the ground floor of the said Jhuggi No. A– 28 and regarding that DDA has made allotment in favour of Parwati. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that his brother Rajesh along with his family is living on the first floor of the said Jhuggi bearing No. A-28 and sought allotment against the first floor of the said Jhuggi No. A-28 but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the Appeal No. 119 of 2022 for redressal. It is pointed out that the Appeal No. 119 of 2022 and the present Appeal No. 148 of 2022 shall be decided separately on their respective merit.

10. The Appellant/Claimant has stated after her marriage with Nurul in the year 2012 her husband had purchased a double storey Jhuggi No. C-345 in Bhoomiheen Camp and accordingly she had shifted to the ground floor of the said Jhuggi No. C-345. Whereas tenant Parvin is living on the first floor of the said Jhuggi No. C-345. The Appellant/Claimant Savita along with her family is living on the ground floor of the Jhuggi No C-345 in Bhoomiheen Camp and she had sought allotment from DDA against the said Jhuggi but her claim has been rejected and accordingly aggrieved by the same she has filed Appeal No. 148 of 2022 before the Appellate Authority. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-H, in support of her claim and prayed that DDA be directed to make alternative allotment in her favour as per the policy guidelines issued by DDA.

11. DDA has furnished the survey records along with two video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 03.02.2023 wherein she has stated that in the video clips she (Savita- Appellant/Claimant) is seen in her Jhuggi on the ground floor and further her kitchen is also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double

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storey pucca Jhuggi No. C-345 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the ground floor of the said Jhuggi for residential purposes.

12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-345 in Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the ground floor of the said Jhuggi for residential purposes.

13. Now we shall 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.

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

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

> "**Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.

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

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

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

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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. The Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C) issued on the address of Jhuggi No. C-345, Pan Card (Annexure-D), Pass Book of PNB (Annexure-E) issued on 23.09.2010 on the address of Jhuggi No. A-28, Electricity Bill (Annexure-F) issued on the address of Jhuggi No. C-345 on 26.02.2019 (after the cutoff date of 02.02.2015), Aadhar Card (Annexure-G) of her son Arun and Voter List of 2014 (Annexure-H).

18. It is pointed out that both the Voter ID Cards (Annexure-A & Annexure-B) are bearing same number, i.e., ARE 1132141. The first Voter ID Card (Annexure-A) has been issued on 27.10.2008 when she was unmarried and that is why it has been issued on the address of her father bearing Jhuggi No. A-28 thereby recording the the name of the Appellant/Claimant & her father as "Savita D/o Ram Prasad". In the Voter List of 2014 (Annexure-H) the name of the Appellant/Claimant is mentioned at Sl. No. 195 as "Savita D/o Ram Prasad" and her address is recorded to be Jhuggi No. A-28.

19. The second Voter ID Card (Annexure-B) has been issued on on 06.11.2019 when she was married with Mohd. Nurul and it has been issued on the address of her matrimonial home bearing Jhuggi No. C-345 thereby recording the the name of the Appellant/Claimant & her husband as "Savita W/o Mohd. Nurul".

20. It is pertinent to point out that the Appellant/Claimant has sought allotment from DDA against the ground floor of Jhuggi No. C-345 but the Voter ID Card (Annexure-A), the Pass Book of PNB (Annexure-E) and and the Voter List of 2014 (Annexure-H) have been issued on the address of Jhuggi No. A-28. Thus the first Voter ID Cards (Annexure-A), the Pass Book of

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PNB (Annexure-E) and the Voter List of 2014 (Annexure-H) are not material because these documents pertain to Jhuggi No. A-28 of her father. The second Voter ID Card (Annexure-B) has been issued on the address of Jhuggi No. C-345 regarding which the Appellant/Claimant is claiming allotment from DDA but it has been issued on 06.11.2019, much after the cutoff date of 01.01.2015.

21. Therefore, the first Voter ID Card (Annexure-A) issued on 27.10.2008 on the address of her father bearing Jhuggi No. A-28 remained to be a valid document from 27.10.2008 up to 06.11.2019 and more especially it was a valid document on the cutoff date of 01.01.2015, till second second Voter ID Card (Annexure-B) was issued on 06.11.2019. Thus, on the cutoff date of 01.01.2015 the Appellant/Claimant was having the Voter ID Card (Annexure-A) but it happened to have been issued on the address of Jhuggi No. A-28 of her father. There is no doubt that ***the Appellant/Claimant was not having a Voter ID on the cutoff date of 01.01.2015, which has been issued on the address of Jhuggi No. C-345, regarding which she is claiming allotment from DDA*** because the address was changed from Jhuggi No. A-28 to Jhuggi No. C-345 by getting the second Voter ID Card (Annexure-B) issued on 06.11.2019, much after the cutoff date of 01.01.2015. Furthermore, the Appellant/Claimant has also not tendered the Voter List of the year 2019 to show that she had used the the second Voter ID Card (Annexure-B) to cast her vote thereby showing that her name does not appear in the Voter List 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, which has been issued on the address of Jhuggi No. C-345, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year of survey. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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 on the address of Jhuggi No. C-345 regarding which she is claiming allotment from DDA because the address was changed from Jhuggi No. C-345 to Jhuggi No. A-28 by getting the second Voter ID Card (Annexure-B) issued on 06.11.2019, much after the cutoff date of 01.01.2015. Therefore, the first Voter ID Card (Annexure-A) issued on 27.10.2008 on the address of her father bearing Jhuggi No. A-28 remained to be a

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valid document from 27.10.2008 up to 06.11.2019 and more especially on the cutoff date of 01.01.2015 also, till second second Voter ID Card (Annexure-B) was issued on 06.11.2019. Furthermore, the name of the Appellant/Claimant also does not appear in the Voter List of the year of survey. 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. 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 on the address of Jhuggi No. C-345 regarding which she is claiming allotment from DDA and her name also does not appear in the Voter List of the year of survey. Therefore, she 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. 385/58/69.1/1149 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: 514 of 2023

Date of Institution: 02.12.2022

Date of Order: 14.02.2023

Present: Appellant/ Claimant Praveen Kumar Jha S/o Udgar 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-102, 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-102 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

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rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/36/024.1-A/938 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 514 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 01.02.2023. 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-102 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.

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 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.

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7. The statement of the Appellant/Claimant Praveen Kumar Jha has been recorded before us on 01.02.2013, wherein he has stated that his parents, Udgar & Mamta, are having two sons, Praveen (Appellant/Claimant) & Navin and two daughters, namely, Runa & Munni. Praveen and Runa are unmarried. Munni is married and she is living in her matrimonial home in West Bengal. Whereas Navin is married with Pinki and having two children, Kavya & Prince.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No.C-102, which comprised of one room on the ground floor and two rooms on the first floor. His parents, Udgar & Mamta, along with their unmarried daughter, Runa, are living on the ground floor of the said Jhuggi and regarding that DDA has made allotment in favour of his mother Mamta. These facts are not disputed by DDA.

9. The Appellant/Claimant has also stated that his brother Navin along with his wife Pinki & two children, Kavya & Prince is living in one of the room on the first floor of the Jhuggi No.C-102 but regarding that he has not sought allotment from DDA.

10. The Appellant/Claimant has further stated that he is living in the second room on the first floor of the said Jhuggi bearing Jhuggi No. C-281. The Appellant/Claimant has sought allotment against the first floor of the said Jhuggi bearing Jhuggi No. C-281 but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-F, in support of his claim and prayed that DDA be directed to make alternative allotment in his favour as per the policy guidelines issued by DDA.

11. DDA has furnished the survey records along with two video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 01.02.2023 wherein he has stated that in the first video clip his mother Mamta is seen in her Jhuggi on the ground floor and in the second video clips he (Parvin-Appellant/Claimant) is seen in his Jhuggi 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 pucca Jhuggi was in existence in the Bhoomiheen Camp on the cut off date of

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01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.

12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-281 in Bhoomiheen Camp is a pucca structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant has been 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 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.

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-F, in support of his 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 he is having a joint Ration Card with his mother Mamta. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further 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. 385/36/024.1-A/938 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.

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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

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

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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 appear in at least 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 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.

22. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 2527919 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C).

23. The Appellant/Claimant has tendered the Voter ID Card bearing number ARE 2527919 (Annexure-A), which has been issued on 21.10.2020, much after the cut off date of 01.01.2015. Accordingly, the question of his name appearing in at least on 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 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 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, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

24. The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of first floor of Jhuggi No. C-102 regarding which he is claiming allotment from DDA. He has tendered the joint Ration card (Annexure-F), which has been issued in the name of his mother Mamta and the names of the family member including that of present Appellant/Claimant has been recorded. It is pointed out that the date of issuance of ration card is not mentioned. But the fact remains that the Appellant/Claimant is not having a separate ration card in spite of the fact that he is claiming allotment from DDA against the upper floor. Accordingly, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

25. The Appellant/ Claimant has also tendered the Electricity Bill (Annexure-D) and Pass Book of Bank of Baroda (Annexure-E). The Electricity Bill (Annexure-D) shows that the Electricity connection has been taken on 24.12.2009 in the name of his father Udgar on his Jhuggi on the ground floor. There was no separate electricity connection for the first floor. The Pass Book of Bank of Baroda (Annexure-E) shows that the account has been opened by the Appellant/Claimant on 03.01.2021, much after the cut off date of 01.01.2015. The documents, Annexure-D & Annexure-E, 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 Voter ID Card & separate Ration Card on the cut-off date of 01.01.2015 and his name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. 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 the Voter ID Card on the cutoff date of 01.01.2015 because his Voter ID Card bearing number ARE 2527919 (Annexure-A), which has been issued on 21.10.2020, much after the cut off date of 01.01.2015. The documents, Annexure-A to Annexure-F, 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 Voter ID Card & separate Ration Card on the cut-off date of 01.01.2015 and his name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. 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 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. 385/36/024.1-A/938 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: 541 of 2023

Date of Institution: 05.12.2022

Date of Order: 15.02.2023

Present: Appellant/ Claimant Mithlesh W/o Jagdish 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. D-152, 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 ground floor of Jhuggi bearing No. D-152 was found to be used as shop for commercial purposes accordingly the Appellant/ Claimant was not entitled for alternate allotment as per the policy guidelines. 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. 385/39/6.1/1045 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 541 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 02.02.2023. 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 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. D-152 was found to be used for commercial purposes and accordingly she is not 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 her 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.

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 ground floor of the Jhuggi bearing No. D-152 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.

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7. 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

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- 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."

8. The Appellant/ Claimant has stated that she is married with Jagdish Prasad and having four sons, namely, Indrajit, Mohit , Nikku and Manoj and one daughter, namely, Roshni. All the children except Roshni & Manoj are married. Indrajit is married with Sunita and having one daughter Khushi. Mohit is married with Jyoti and having two children, namely Naitik & Pari. Nikku is married with Shivani and having one daughter, namely, Kanishka. Mohit and Nikku are living on rent outside Bhoomiheen Camp.

9. The Appellant/ Claimant has stated that she is having a double storey Jhuggi No. D-152 and it comprised of one room on each floor. Her husband Jagdish Prasad is running an Electricity shop under the name & style "Roshni Electricals" on the ground floor and he also used to take rest in the shop during daytime whereas the room on the first floor is used for living purposes by the family including cooking food.

10. The Appellant/ Claimant has stated that her daughter-in-law Sangeeta W/o Indrajit has sought allotment against the first floor of the said Jhuggi No. D-152. DDA has made allotment in her favour. These facts are not disputed by DDA.

11. The Appellant/ Claimant has also sought allotment from DDA against the ground floor of the said Jhuggi No. D-152 in which her husband is running the electrical shop. But her claim

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has been rejected by DDA and aggrieved by the same she has filed the present appeal. The Appellant/ Claimant has tendered documents Annexure-A to Annexure-I, and prayed that DDA be directed to make allotment in her favour.

12. The condition contained in Part–B Paras No. 8 & 9 of DDA policy 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."

13. DDA has furnished the survey records along with thirteen video clips, which pertains to the Jhuggi of the Appellant/Claimant. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 02.02.2023 wherein she has stated that in the eight video clips the electrical shop on the ground floor is seen and she is seen standing in her shop regarding which she has sought allotment from DDA and further a bamboo ladder is seen going from the ground floor to the upper floor. The Appellant/Claimant is also seen climbing up to the first floor where her daughter-in-law is also seen along. It is pointed out that the Appellant/Claimant is also heard of making statement that her husband is running a shop on the ground floor and the entire family uses the first floor for living purposes. This shows that the Appellant/Claimant and also the family of her son Indrajit are living jointly.

14. The admission of the Appellant/ Claimant is a clincher piece of evidence and it shows that the Appellant/ Claimant is having a double storey Jhuggi No. D-152 and it comprised of one room on each floor. The room on the ground floor is used as shop wherein her husband Jagdish Prasad is running an electricity shop under the name & style "Roshni Electricals" and further the Appellant/ Claimant & her family are living jointly on the first floor. It is also admitted that DDA has made allotment in favour of her daughter-in-law Sangeeta W/o Indrajit against the first floor of the said Jhuggi No. D-152. Therefore, the material placed

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on file shows that Jhuggi No. D-152 is double storey structure and it comprised of one room on each floor. The ground floor of Jhuggi No. D-152 is used as shop whereas the Appellant/ Claimant and her family are jointly living on first floor of Jhuggi No. D-152. Therefore, for all purposes the double storey Jhuggi is a single dwelling unit as the Jhuggi No. D-152 is being used for both residential and commercial purposes. DDA has made allotment in favour of Sangeeta W/o Indrajit against the first floor of the said Jhuggi No. D-152 and accordingly two allotments against the same dwelling unit are not permissible as per the guidelines issued by DDA.

15. Accordingly, we have no hesitation in holding that the Appellant/ Claimant and her family have been using the ground floor of Jhuggi No. D-152 as shop for commercial purposes and the first floor of the said Jhuggi is used for residential purposes regarding which DDA has made allotment in favour of Sangeeta (daughter-in-law of the present Appellant/Claimant) and accordingly the Appellant /Claimant is not entitled to seek second allotment against then same dwelling unit. Therefore, the Appellant /Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

16. The Appellant/Claimant has tendered her Voter ID Card (Annexure-A), Aadhar Card (Annexure-B) as well as the Voter ID Card (Annexure-C) & Aadhar Card (Annexure-D) of her husband Jagdish and Electricity Bill (Annexure-E), New Ration Card (Annexure-F), Voter List of the year 2104 (Annexure-G), Voter List of the year 2109 (Annexure-H) and old Ration Card (Annexure-I) of Jagdish. 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 becuase the Appellant/ Claimant & her family have been using the ground floor of Jhuggi No. D-152 as shop for commercial purposes and the first floor of the said Jhuggi for residential purposes regarding which DDA has made allotment in favour of Sangeeta, who is the daughter-on-law of the present Appellant/Claimant and accordingly the Appellant/Claimant is not entitled to seek second allotment against the same dwelling unit. Therefore, the Appellant /Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

17. 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

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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. 385/39/6.1/1045 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

18. 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: 278 of 2023

Date of Institution: 25.11.2022

Date of Order: 15.02.2023

Present: Appellant/ Claimant Parmod Tiwari S/o Ravinder 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 he is living in Jhuggi bearing No. A-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 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-98 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. 385/41/25.1-A/1060 dated

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07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 278 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 06.02.2023. 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-98 was found to exist on the first floor but he had failed to submit required documents, i.e., 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.

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 separate Ration Card, on the cutoff date of 01.01.2015.

7. The statement of the Appellant/ Claimant, Parmod Tiwari, has been recorded before us on 06.02.2023, wherein he has stated that his parents, Ravinder & Manju, are having five sons, namely, Pramod (Appellant/Claimant), Ravi, Abhishek, Sonu & Monu and one daughter, namely, Puhpa. Ravinder has died about five years ago. All the children except Sonu and Monu are married. Pushpa is married with Vicki but they have separated and

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now Pushpa is living with her mother Manju. Pramod is married with Babita and Ravi is married with Lovely. Abhishek is married with Radha and having two children.

8. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi No. A-98 and it comprised of one room on the ground floor, two rooms of the first floor and one room on the second floor. His mother Manju along with her unmarried sons, Sonu & Monu, is living on the ground floor of Jhuggi No. A-98 whereas his sister Pushpa is living on the second floor. DDA has made allotment in favour of his mother Manju against the ground floor of the said Jhuggi No. A-98. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that his brother Abhishek along with his family is living in one of the rooms on the first floor of Jhuggi No. A-98 and sought allotment from DDA. But his claim has been rejected by EDC and aggrieved by the same Abhishek has filed appeal before the Appellate Authority. These facts are not disputed by DDA. It is pointed out that the appeal No. 182/2022 filed by Abhishek and the appeal No. 278/2023 filed by the present Appellant/Claimant shall be decided separately on their individual merit.

10. The Appellant/Claimant has stated that he along with his family is living in the second room on the first floor of the Jhuggi No. A-98. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure J, and prayed that DDA be directed to make allotment in her favour.

11. DDA has furnished the survey records along with three video clips. These video clips were played before the Appellant/Claimant when his statement was recorded before us on 06.02.2023 wherein he has stated that in two of the video clip his mother Manju is seen standing in the Jhuggi on the ground floor and a pucca staircase is seen going from the ground floor to the upper floor whereas in the third video Clip he (Parmod-Appellant/Claimant) is seen standing in his first floor Jhuggi No. A-98 regarding which he is claiming allotment from DDA. It is pointed out that the survey team did not make the video of the second floor, as there was no claimant for the second. However, this is nothing to disbelieve the statement of the Appellant/Claimant to the effect that the said

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Jhuggi No. A-98 was a triple story structure. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca triple storey Jhuggi of the family of the Appellant/Claimant bearing Jhuggi No. A-98 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/ Claimant & his family has been using the first floor of the said Jhuggi for residential purposes.

12. Accordingly, we have no hesitation in holding that the Jhuggi No. A-98 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 have been using the first floor of the said Jhuggi No. A-98 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 a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and 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.

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-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 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 issued. 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 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,

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there is no illegality in the impugned rejection order bearing No. 385/41/25.1-A/1060 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.
> 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

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 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 was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and 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.

22. The Appellant/Claimant has tendered his Voter ID Card bearing number CXY 1537026 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C) and Driving License (Annexure-D).

23. The Appellant/Claimant has tendered his Voter ID Card bearing number CXY 1537026 (Annexure-A), which has been issued on 26.10.2012, much before the cutoff date of

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01.01.2015. But the Appellant/Claimant has not furnished the Voter List of the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey to show that he had casted his vote by using Voter ID Card bearing number CXY 1537026 (Annexure-A) and accordingly, there is no material placed on file to show that 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, does not arise at all. 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 there is no material placed on file to show that 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. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

24. The Appellant/Claimant has admitted that he is not having a separate Ration Card on the address of first floor of the Jhuggi No. A-98 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered joint Ration Card (Annexure-I). The Ration Card (Annexure-I) has been issued in the name of his mother Manju and the names of the family members, including the name of the present Appellant/Claimant, have been recorded and further this Ration Card has been issued on 10.09.2014, just about four months before the cut off date of 01.01.2015. But the fact remains that the Appellant/Claimant is claiming allotment from DDA against the upper floor but he is not having a separate Ration Card on the cutoff date of 01.01.2015. 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 also tendered his Pass Book of Federal Bank (Annexure-G) as well as the Voter ID Card bearing number ARE 2540441 (Annexure-E), Aadhar Card (Annexure-F) & Electricity Bill (Annexure-H) of his wife Babita. The Voter ID Card bearing number ARE 2540441 (Annexure-E) has been issued on 19.03.2022, much after the cutoff date of 01.01.2015. The material placed on file shows that the wife of the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015. The Electricity Bill (Annexure-H) shows that the electricity connection has been taken on the address of Jhuggi No. A-98 in name of his wife Babita and the connection has been taken on 29.12.2021, much after the cutoff date of 01.01.2015. The documents, Annexure-E to Annexure-H, are of no help to the Appellant/ Claimant because these documents do not

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create any right, title or interest in his favour to claim allotment from DDA as the Appellant/ Claimant is not having 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.

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 at least on 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. 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 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, he 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. 385/41/25.1-A/1060 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: 599 of 2023

Date of Institution: 08.12.2022

Date of Order: 15.02.2023

Present: Appellant/ Claimant Anjali W/o Ram Parkash

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-580, 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-580 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. 385/62/6.1/1320 dated 07.11.2022 to

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the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 599 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 08.02.2023. 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. C-580 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.

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 Voter ID Card & 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.

7. The statement of the Appellant/ Claimant, Anjali, has been recorded before us on 08.02.2023, wherein she has stated that her in-laws, Jai Kishan & Sahudari, are having two sons, Sanjeev & Ram Prakash. Sanjeev is married with Priyanka and having no

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issues. Ram Prakash is married with Anjali (Appellant/ Claimant) and having two children, Karthik and Navya.

8. The Appellant/ Claimant has stated that her family is having two adjoining Jhuggis bearing Nos. C–579 and C–580. Both the Jhuggis are having one room each on the ground floor but having a joint roof where one room is constructed. The Appellant/ Claimant has stated that in the room on the ground floor of Jhuggi No. C–579 her in-laws, Jai Kishan & Sahudari, along with the family of Sanjeev are living and regarding that DDA has made allotment in favour of her mother-in-law Sahudari. Further, in the room on the ground floor of Jhuggi No. C–580 Shiv Kumar Yadav, who is real brother of Jai Kishan, is living and regarding that DDA has made allotment in favour of Shiv Kumar Yadav. These facts are not disputed by DDA.

9. The Appellant/ Claimant has stated that she along with her husband Ram Prakash and children, Karthik & Navya, is living on the first floor of Jhuggi No. C–580. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi No. C–580 but her claim has been wrongly rejected by DDA and aggrieved by the same she has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure E, and prayed that DDA be directed to make allotment in her favour.

10. DDA has furnished the survey records along with seven video clips. These video clips were played before the Appellant/Claimant when her statement was recorded before us on 08.02.2023 wherein she has stated that the two video clips pertain to the ground floor Jhuggi No. C–579 of her in-laws in which her mother-in-law Sahudari is seen and two video clips pertain to the ground floor Jhuggi No. C–580 in which Shiv Kumar Yadav is seen and in the remaining three video clips she (Anjali-Appellant/Claimant) is seen standing in her first floor Jhuggi No. C–580. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey pucca Jhuggi No. C–580 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the said Jhuggi for residential purposes.

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11. Accordingly, we have no hesitation in holding that the Jhuggi No. C–580 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 have been using the first floor of the said Jhuggi No. C–580 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 & 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.

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-E, 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 upper floor but she is having a joint Ration Card with Devanti Devi W/o Shiv Kumar Yadav, who is aunt of her husband. 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. 385/62/6.1/1320 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.

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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

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 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 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.

21. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 2134541 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C).

22. The Appellant/Claimant has tendered her Voter ID Card No. ARE 2134541 (Annexure-A) which has been issued on 17.02.2017, much after the cut off date of 01.01.2015. Accordingly, the question of her name appearing in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015), does not arise at all. The Appellant/Claimant has also not tendered the Voter Lists on file to show that she had

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casted his vote 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 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, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

23. The Appellant/Claimant has categorically admitted that she is not having a separate Ration Card issued on the address of first floor of Jhuggi No. C-580 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered her Pass Book of Bank of India (Annexure-D) and joint Ration Card (Annexure-E). The Pass Book of Bank of India (Annexure-D) shows that the Appellant/Claimant has opened the account on 25.01.2017, much after the cut off date of 01.01.2015. The joint Ration Card (Annexure-E) shows that it has been issued in the name of Devanti Devi W/o Shiv Kumar Yadav, who is the aunt of her husband. The date of issuance is not mentioned and further the names of the husband and children of the Appellant/Claimant are conspicuously missing. The Appellant/Claimant has stated that she has got her name included in the Ration Card (Annexure-E) to get medical treatment for her daughter Navya in AIIMS. But the fact remains that the Appellant/Claimant is not having a separate ration card issued on the address of the first floor of Jhuggi No. C–580 regarding which she is claiming allotment from DDA. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

24. The material placed on file shows that the Appellant/ Claimant was not having the Voter ID Card on the cutoff date of 01.01.2015 because her Voter ID Card bearing number ARE 2134541 (Annexure-A) issued on 17.02.2017, much after the cut off date of 01.01.2015. 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 his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having Voter ID Card & separate Ration Card on the cut-off date of 01.01.2015 and her name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. 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 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. 385/62/6.1/1320 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) **(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: 602 of 2023

Date of Institution: 24.11.2022

Date of Order: 15.02.2023

Present: Appellant/ Claimant Amit Saha S/o Kishore Saha

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-140, 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-140 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. 385/36/49.1/955 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the

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same, the present Appeal No. 602 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 09.02.2023. 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. C-140 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.

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.

7. The Appellant/Claimant has stated that his parents, Kishore Saha & Usha, are having one son Amit Saha (Appellant/Claimant) & a daughter, Amrita. Amrita is unmarried whereas Amit Saha is married with Babli and having two children, Tanisha & Jiyansh.

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8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. C-140 and an iron ladder is placed outside in gali for going to the upper floor. His parents, Kishore Saha & Usha, along with their unmarried daughter Amrita, are living on the ground floor of Jhuggi No. C-140 and regarding that DDA has made allotment in favour of Roma. These facts are not disputed by DDA.

9. The Appellant/Claimant has also stated that he along with his wife Babli and both the children, Tanisha & Jiyansh, is living on the first floor of the said Jhuggi bearing Jhuggi No. C-140. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. C-140 but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make alternative allotment in his favour as per the policy guidelines issued by DDA.

10. DDA has furnished the survey records along with four video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 09.02.2023 wherein he has stated that in the three video clip his mother Usha is seen in her Jhuggi on the ground floor and her kitchen is also seen whereas in the fourth video clip he (Amit Saha- Appellant/Claimant) is seen in his Jhuggi on the first floor of Jhuggi No. C-140. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca double storey Jhuggi of the family of the Appellant/Claimant bearing Jhuggi C-140 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the first floor of the said Jhuggi was used by the Appellant/ Claimant & his family for residential purposes.

11. Accordingly, we have no hesitation in holding that the Jhuggi No. C-140 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 have been using the first floor of the said Jhuggi No C-140 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 &

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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.

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-K, in support of his 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 upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015 but having a joint Ration Card with his parents. 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. 385/36/49.1/955 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.

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

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

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

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

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 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.

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 & 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.

21. The Appellant/Claimant has tendered his two Voter ID Cards bearing number ARE 1170836 (Annexure-A & Annexure-I), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List for the year 2014 (Annexure-J) and Voter List for the year 2019 (Annexure-K).

22. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-I), and both are bearing same number ARE 1170836 and stand issued on the address of Jhuggi No. C-140. The first Voter ID Card (Annexure-A) has been issued on 27.10.2008 and the second Voter ID Card (Annexure-I) has been issued on 11.03.2019. His name appears at Sl. No. 685 in the Voter List for the year 2014 (Annexure-J) and at Sl. No. 739 in the Voter List for 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 at least 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. The Appellant/ Claimant has also tendered the Voter ID Card bearing number ARE 2109604 (Annexure-D), Aadhar Card (Annexure-B) and Pan Card (Annexure-C) of his wife Babli. The Voter ID Card bearing number ARE 2109604 (Annexure-D) has been issued on 05.12.2017, much after the cut off date of 01.01.2015.

24. The Appellant/Claimant has admitted that he is not having a separate Ration Card on the address of first floor of the Jhuggi No. C-140 regarding which he is claiming allotment from

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DDA. The Appellant/Claimant has tendered the old joint Ration Card (Annexure-G) issued on 01.06.2007 in the name of his father Kishore Saha and the names of the family members, including that of the present Appellant/Claimant, have been recorded. The new joint Ration Card (Annexure-H) has been issued in the name of his mother Usha and the names of the family members, including the name of the present Appellant/Claimant, have been recorded and further this Ration Card has been issued on 21.11.2014, just about two months before the cut off date of 01.01.2015. But the fact remains that the Appellant/Claimant is claiming allotment from DDA against the upper floor but he is 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 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, which make separate Ration Card mandatory for the upper floor.

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. 385/36/49.1/955 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) **(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: 139 of 2022

Date of Institution: 22.11.2022

Date of Order: 16.02.2023

Present: Appellant/ Claimant Anil Yadav S/o Dinesh Yadav

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-172, 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-172 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. 385/66/84.2.1/1493 dated

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07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 139 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 23.01.2023. 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-172 was found to exist on the upper floor but he had failed to submit required documents, i.e., 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.

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 separate Ration Card, on the cutoff date of 01.01.2015.

7. The statement of the Appellant/ Claimant, Anil Yadav, has been recorded before us on 23.01.2023, wherein he has stated that his parents, Dinesh & Itwaro, are having four sons, namely, Sunil, Anil (Appellant/ Claimant), Manoj & Anup. All the children are married. Sunil is married with Rinki and having two children, Kunal & Adip. Anil is married with Sunita and having two children, Anisha & Arpita. Manoj is married with

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Ruby and having three children, Khushbu, Shivani & Ankush. Anup is married with Kavita.

8. The Appellant/ Claimant has stated that his family is having double storey Jhuggi No. A-172 and it comprised of two rooms on the ground floor and two rooms on the first floor. His parents, Dinesh & Itwaro, are living in one of the rooms on the ground floor and regarding that DDA has made allotment in favour of his mother, Itwaro.

9. The Appellant/ Claimant has stated that his brother Sunil along with his wife Rinki & two children, Kunal & Adip, is living in the second room on the ground floor bearing Jhuggi No. A-172 and regarding that Sunil has sought allotment from DDA but his claim has been rejected by DDA

10. The Appellant/ Claimant has also stated that his brother Manoj along with his wife Ruby & three children, Khushbu, Shivani &, is living in the first room on the second floor of Jhuggi No. A-172 and regarding that Ruby has sought allotment from DDA but her claim has been rejected by DDA.

11. The Appellant/ Claimant has further stated that he along with his wife Sunita and two children, Anisha & Arpita, is living in the second room on the first floor bearing Jhuggi No. A-172. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure I, and prayed that DDA be directed to make allotment in his favour.

12. The material placed on file shows that four members of the family of the present Appellant/Claimant have sought allotment from DDA. Out of which one allotment has been made by DDA in favour of Itwaro W/o Dinesh. But three other claims made by Sunil S/o Dinesh, Anil S/o Dinesh and Ruby W/o Manoj S/o Dinesh have been rejected by EDC and aggrieved by the same Sunil S/o Dinesh has filed Appeal No. 84 of 2002, Anil S/o Dinesh has filed Appeal No. 139 of 2002 and Ruby W/o Manoj has filed Appeal No. 225 of 2002. It is pertinent to point out that the above mentioned three appeals shall be decided separately on their respective merit.

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13. DDA has furnished the survey records along with nine video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 23.01.2023 wherein he has stated that three video clips pertains to the Jhuggi of his mother Itwaro, two video clips pertains to the Jhuggi of his Ruby, two video clips pertains to the Jhuggi of his Anil in which staircase going to first floor is also seen and two video clips pertains to his Jhuggi.

14. 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 bearing Jhuggi No. A-172, Bhoomiheen Camp, and it comprised of two rooms on the ground floor and two rooms on the first floor and the Appellant/Claimant was living on the first floor of the said Jhuggi was on the cut off date of 01.01.2015 and it is used for residential purposes.

15. Accordingly, we have no hesitation in holding that the Jhuggi No. A-172 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. A-172 for residential purposes.

16. Now we shall 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 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.

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

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18. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but 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. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/66/84.2.1/1493 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.

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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.

<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

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

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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

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.

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.

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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 a Voter ID Card & separate Ration 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) & of the year of survey.

25. The Appellant/Claimant has tendered her Voter ID Card bearing number ARE 1136589 (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).

26. The Appellant/Claimant has tendered the Voter ID Card bearing number ARE 1136589 (Annexure-A), which has been issued on 27.10.2008, much after the cut off date of 01.01.2015. The name of the present Appellant/Claimant appears at Sl. No. 171 in the Voter List of the year 2015 (Annexure-H) and at Sl. No. 140 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 appears in at least on the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

27. The Appellant/Claimant has admitted that he is not having a separate Ration Card on the address of first floor of the Jhuggi No. A-172 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-F) showing that it has been issued in the name of his mother Itwaro and the name of family members, including that of the present Appellant/Claimant, have been mentioned. However, the date of issuance is not mentioned. The facts remain that the Appellant/Claimant is not having a separate Ration Card. 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 mandatory for the upper floor.

28. The Appellant/Claimant has tendered the Aadhar Card (Annexure-D) of his wife Sunita and Electricity Bill (Annexure-G). It is pointed out that the Aadhar Card (Annexure-D) has not been issued on the address of Bhoomiheen Camp but it has been issued on the address of the native village, Situhari, Bhojpur, Bihar. Hence this document is not relevant to determine the eligibility of the present Appellant/Claimant. The Electricity Bill (Annexure-G) shows that the electricity connection was taken in the name of his mother Itwaro and it was energised on 10.06.2008. The facts remain that the Appellant/Claimant has not taken electricity connection on the address of ground floor

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of Jhuggi No. A-172 regarding which he is claiming allotment from DDA. The documents, Annexure-D & 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 the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015.

29. The material placed on file shows 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 at least on 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 the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., 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.

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. 385/66/84.2.1/1493 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) 16/2/2023	(Satish Ahlawat) 16/2/2023	(Rachna Tiwary) 16/2/2023
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: 86 of 2022

Date of Institution: 21.11.2022

Date of Order: 16.02.2023

Present: Appellant/ Claimant Sumitra W/o Ghanshyam

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-143, 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-143 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. 385/67/17.1/1511 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by

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the same, the present Appeal No. 86 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 04.01.2023. 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 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-143 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.

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 Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015.

7. The Appellant/Claimant has stated that her in-laws, Ram Chander & Prabhu Devi, are having five sons, namely, Arvind, Anil, Sunil, Radhey Shyam & Ghanshyam and three daughters, namely, Sheela, Asha & Guddu. All the children except Anil are married. Arvind is married with Anita. Sunil is married with Antima and Ghanshyam is married with

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Sumitra (Appellant/Claimant). All the three daughters are living in their respective matrimonial homes in Azamgarh, Uttar Pradesh. Anil is living in District Pratapgarh, Uttar Pradesh. Whereas Radhey Shyam is living in Kotla, Delhi.

8. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. A-143. Arvind along with his wife Anita and two children Ashu & Ayush and also with the family of his brother Sunil is living on the ground floor of the said Jhuggi No. A-143 and regarding that DDA has made allotment in favour of Arvind. These facts are not disputed by DDA.

9. The Appellant/Claimant has also stated that she along with her husband Ghanshyam & both the children, Ria & Manisha is living on the first floor of the said Jhuggi bearing Jhuggi No. A-143. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-143 but her claim has been wrongly rejected by DDA and aggrieved by the same she has filed the present Appeal for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-I, in support of her claim and prayed that DDA be directed to make alternative allotment in her favour as per the policy guidelines issued by DDA.

10. DDA has furnished the survey records along with four video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 04.01.2023 wherein she has stated that in the two video clip Anita W/o Arvind is seen in her Jhuggi on the ground floor and further she is holding a slate in her hand on which "A-133 G" is written whereas in the remaining two video clips she (Sumitra-Appellant/Claimant) is seen in her Jhuggi on the first floor of the Jhuggi No. A-143 and further she is holding a slate in her hand on which "Sumitra Devi- A-133 F" is written. It is pertinent to point out that the Appellant/Claimant has claimed alootment from DDA against Jhuggi no. A-143 but she has got the survey conducted on Jhuggi No. A-133 F. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca double storey Jhuggi of the family of the Appellant/Claimant bearing Jhuggi No. A-143 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the first floor of the said Jhuggi was used by the Appellant/ Claimant & her family for residential purposes.

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11. Accordingly, we have no hesitation in holding that the Jhuggi No. A-143 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 have been using the first floor of the said Jhuggi No. A-143 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 & separate Ration Card, on the cutoff date of 01.01.2015.

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 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 upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015. Further, the Appellant/ Claimant is not having a Voter ID Card & 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. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/67/17.1/1511 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.

<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 mandatory for the

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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 at least 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 & 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.

21. The Appellant/Claimant has tendered her Voter ID Card bearing number ARE 1958106 (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).

22. The Appellant/Claimant has tendered the Voter ID Card bearing number ARE 1958106 (Annexure-A), which has been issued on 23.02.2015, much after the cut off date of 01.01.2015. The name of the present Appellant/Claimant appears at Sl. No. 52 in the Voter List of the year 2015 (Annexure-G) and at Sl. No. 76 in the Voter List of the year 2019 (Annexure-H). The Appellant/Claimant is claiming allotment from DDA against the first floor of the Jhuggi No. A-143 but the Voter ID Card (Annexure-A) & Aadhar Card (Annexure-B) have been issued on some other address bearing Jhuggi No. A-133. Accordingly, these documents are not relevant. 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. Accordingly, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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23. The Appellant/Claimant has admitted that she is not having a separate Ration Card on the address of first floor of the Jhuggi No. A-143 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 mandatory for the upper floor.

24. The Appellant/ Claimant has also tendered her Pass Book of PNB (Annexure-D) as well as the Voter ID Card bearing number ARE 1769049 (Annexure-E) & Aadhar Card (Annexure-F) of her husband Ghanshyam and Electricity Bill (Annexure-I). The Pass Book of PNB (Annexure-D) shows that the account was opened by the Appellant/ Claimant on the address of Jhuggi No. A-133 on 17.09.2016, much after the cut off date of 01.01.2015. The Voter ID Card bearing number ARE 1769049 (Annexure-E) & Aadhar Card (Annexure-F) of her husband Ghanshyam have also been issued on the address of Jhuggi No. A-133. The Electricity Bill (Annexure-I) shows that the electricity connection has been taken on 14.07.2008 in the name of her father-in-law Ram Chander on his Jhuggi No. A-133. Admittedly, the Appellant/Claimant was not having electricity connection on the address of his Jhuggi on the first floor bearing No. A-143 regarding which she is claiming allotment from DDA. The Appellant/Claimant is claiming allotment from DDA against the first floor of the Jhuggi No. A-143 but the documents, Annexure-D to Annexure-F & Annexure-I, have been issued on some other address bearing Jhuggi No. A-133. Therefore, these documents are not relevant and accordingly these documents do not create any right, title or interest in her favour to claim allotment from.

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. 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 Appellant/ Claimant was not having the requisite mandatory document, i.e., a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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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 her claim. There is no infirmity and illegality in the impugned order bearing No. 385/67/17.1/1511 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: 84 of 2022

Date of Institution: 21.11.2022

Date of Order: 16.02.2023

Present: Appellant/ Claimant Sunil Yadav S/o Dinesh Yadav

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-172, 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-172 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. 385/66/84.3.G/1494 dated

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07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 84 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 23.01.2023. 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-172 was found to exist on the upper 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 **"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 Voter ID Card & separate Ration 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.

7. The statement of the Appellant/ Claimant, Sunil Yadav, has been recorded before us on 23.01.2023, wherein he has stated that his parents, Dinesh & Itwaro, are having four sons,

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namely, Sunil (Appellant/ Claimant), Anil, Manoj & Anup. All the children are married. Sunil is married with Rinki and having two children, Kunal & Adip. Anil is married with Sunita and having two children, Anisha & Arpita. Manoj is married with Ruby and having three children, Khushbu, Shivani & Ankush. Anup is married with Kavita.

8. The Appellant/ Claimant has stated that his family is having double storey Jhuggi No. A-172 and it comprised of two rooms on the ground floor and two rooms on the first floor. His parents, Dinesh & Itwaro, are living in one of the rooms on the ground floor and regarding that DDA has made allotment in favour of his mother, Itwaro.

9. The Appellant/ Claimant has stated that his brother Anil along with his wife Sunita & two children, Anisha & Arpita, is living in the first room on the first floor of Jhuggi No. A-172 and regarding that Anil has sought allotment from DDA but his claim has been rejected by DDA.

10. The Appellant/ Claimant has also stated that his brother Manoj along with his wife Ruby & three children, Khushbu, Shivani & Ankush, is living in the second room on the first floor of Jhuggi No. A-172 and regarding that Ruby has sought allotment from DDA but her claim has been rejected by DDA.

11. The Appellant/ Claimant has further stated that he along with his wife Rinki & two children, Kunal & Adip, is living in the second room on the ground floor bearing Jhuggi No. A-172. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure G, and prayed that DDA be directed to make allotment in his favour.

12. The material placed on file shows that four members of the family of the present Appellant/Claimant have sought allotment from DDA. Out of which one allotment has been made by DDA in favour of Itwaro W/o Dinesh. But three other claims made by Sunil S/o Dinesh, Anil S/o Dinesh and Ruby W/o Manoj S/o Dinesh have been rejected by EDC and aggrieved by the same Sunil S/o Dinesh has filed Appeal No. 84 of 2002, Anil S/o Dinesh has filed Appeal No. 139 of 2002 and Ruby W/o Manoj has filed Appeal No. 225 of 2002. It is

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pertinent to point out that the above mentioned three appeals shall be decided separately on their respective merit.

13. DDA has furnished the survey records along with nine video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 23.01.2023 wherein he has stated that three video clips pertains to the Jhuggi of his mother Itwaro, two video clips pertains to the Jhuggi of his Ruby, two video clips pertains to the Jhuggi of his Anil and two video clips pertains to his Jhuggi in which staircase going to 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 Jhuggi of the Appellant/Claimant, is a double storey structure bearing Jhuggi No. A-172, Bhoomiheen Camp, and it comprised of two rooms on the ground floor and two rooms on the first floor and the Appellant/Claimant was living on the ground floor of the said Jhuggi was on the cut off date of 01.01.2015 and it is used for residential purposes.

14. Accordingly, we have no hesitation in holding that the Jhuggi No. A-172 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 ground floor of the said Jhuggi No. A-172 for residential purposes.

15. Now we shall 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 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.

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

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

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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."

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/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.

19. 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.

20. The Appellant/Claimant has tendered his Voter ID Card No. ARE 2108801 (Annexure-A), Aadhar Card (Annexure-B) and Pan Card (Annexure-C).

21. It is pointed out that the Voter ID Card bearing No. ARE 2108801 (Annexure-A) has been issued on 13.04.2016, much after the cutoff date of 01.01.2015. Accordingly, the question of his name appearing in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) does not arise at all. The Appellant/Claimant has not tendered the Voter List of the year 2019 to show that he has casted his vote by using Voter ID Card

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bearing No. ARE 2108801 (Annexure-A) in the year of survey. Hence, there is no material on file to show that his name appears in the Voter List 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 at least 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, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

22. The Appellant/Claimant has tendered the Aadhar Card (Annexure-F) & Pan Card (Annexure-G) of his wife Rinki. It is pointed out that the Aadhar Card (Annexure-F) has not been issued on the address of Bhoomiheen Camp but it has been issued on the address of the native village, Situhari, Bhojpur, Bihar. Hence both the documents are not relevant to determine the eligibility of the present Appellant/Claimant.

23. The Appellant/Claimant has also tendered the Ration Card (Annexure-D) and Electricity Bill (Annexure-E). The Ration Card (Annexure-D) shows that it has been in the name of his mother Itwaro and the name of family members, including that of the present Appellant/Claimant, have been mentioned. However, the date of issuance is not mentioned. The facts remain that the Appellant/Claimant is not having a separate Ration Card. The Electricity Bill (Annexure-E) shows that the electricity connection was taken in the name of his mother Itwaro and it was energised on 10.06.2008. The facts remain that the Appellant/Claimant has not taken electricity connection on the address of ground floor of Jhuggi No. A-172 regarding which he is claiming allotment from DDA. The documents, Annexure-D & Annexure-E, 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 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 at least 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. 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 as his Voter ID Card bearing number ARE 2108801 (Annexure-A) has been issued on 13.04.2016, much after the cutoff 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

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and 2015 (prior to 01-01-2015) & also in 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. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a valid Voter ID Card, on the cutoff 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, he 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. 385/66/84.3.G/1494 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) **(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: 225 of 2022

Date of Institution: 23.11.2022

Date of Order: 16.02.2023

Present: Appellant/ Claimant Ruby Devi W/o Manoj Yadav D/o Krishan Yadav

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-172, 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-172 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

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Camp, duly communicated its order bearing No. 385/66/84.1.1/1495 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 225 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 23.01.2023. 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-172 was found to exist on the upper floor but he had failed to submit required documents, i.e., Voter ID Card & 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 **"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 Voter ID Card & a separate Ration 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.

7. The statement of the Appellant/ Claimant, Ruby Devi, has been recorded before us on 23.01.2023, wherein she has stated that her in-laws, Dinesh & Itwaro, are having four

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sons, namely, Sunil, Anil, Manoj & Anup. All the children are married. Sunil is married with Rinki and having two children, Kunal & Adip. Anil is married with Sunita and having two children, Anisha & Arpita. Manoj is married with Ruby (Appellant/ Claimant) and having three children, Khushbu, Shivani & Ankush. Anup is married with Kavita.

8. The Appellant/ Claimant has stated that her family is having double storey Jhuggi No. A-172 and it comprised of two rooms on the ground floor and two rooms on the first floor. Her in-laws parents, Dinesh & Itwaro, are living in one of the rooms on the ground floor and regarding that DDA has made allotment in favour of his mother, Itwaro.

9. The Appellant/ Claimant has stated that Sunil along with his wife Rinki & two children, Kunal & Adip, is living in the second room on the ground floor bearing Jhuggi No. A-172 and regarding that Snil has sought allotment from DDA but his claim has been rejected by DDA

10. The Appellant/ Claimant has stated that Anil along with his wife Sunita & two children, Nisha & Arpita, is living in the first room on the first floor of Jhuggi No. A-172 and regarding that Anil has sought allotment from DDA but his claim has been rejected by DDA.

11. The Appellant/ Claimant has also stated that she along with her husband Manoj & three children, Khushbu, Shivani & Ankush, is living in the second room on the first floor of Jhuggi No. A-172. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi but her claim has been wrongly rejected by DDA and aggrieved by the same she has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure H, and prayed that DDA be directed to make allotment in her favour.

12. The material placed on file shows that four members of the family of the present Appellant/Claimant have sought allotment from DDA. Out of which one allotment has been made by DDA in favour of Itwaro W/o Dinesh. But three other claims made by Sunil S/o Dinesh, Anil S/o Dinesh and Ruby W/o Manoj S/o Dinesh have been rejected

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by EDC and aggrieved by the same Sunil S/o Dinesh has filed Appeal No. 84 of 2002, Anil S/o Dinesh has filed Appeal No. 139 of 2002 and Ruby W/o Manoj has filed Appeal No. 225 of 2002. It is pertinent to point out that the above mentioned three appeals shall be decided separately on their respective merit.

13. DDA has furnished the survey records along with nine video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 23.01.2023 wherein he has stated that three video clips pertains to the Jhuggi of her mother-in-law Itwaro, two video clips pertains to her Jhuggi, two video clips pertains to the Jhuggi of his Anil in which staircase going to first floor is also seen and two video clips pertains to the Jhuggi of Sunil. 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 bearing Jhuggi No. A-172, Bhoomiheen Camp, and it comprised of two rooms on the ground floor and two rooms on the first floor and the Appellant/Claimant was living on the first floor of the said Jhuggi was on the cut off date of 01.01.2015 and it is used for residential purposes.

14. Accordingly, we have no hesitation in holding that the Jhuggi No. A-172 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. A-172 for residential purposes.

15. Now we shall 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 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.

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-H, 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

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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 Voter ID Card & separate Ration 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. 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. 385/66/84.1.1/1495 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 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 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

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.

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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 & separate Ration 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) & of the year of survey.

24. The Appellant/Claimant has tendered her Voter ID Card bearing number ARE 2580355 (Annexure-A), Aadhar Card (Annexure-B) & Pan Card (Annexure-E).

25. The Appellant/Claimant has tendered the Voter ID Card bearing number ARE 2580355 (Annexure-A), which has been issued on 28.03.2022, much after the cut off date of 01.01.2015 and accordingly the question of her name appearing in at least on 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 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 at least on 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.

26. The Appellant/Claimant has admitted that she is not having a separate Ration Card on the address of first floor of the Jhuggi No. A-172 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-D) showing that it has been issued in the name of her mother-in-law, Itwaro and the name of family members, including that of Manoj (husband of the present Appellant/Claimant), have been mentioned. However, the date of issuance is not mentioned. The facts remain that the Appellant/Claimant is not having a separate Ration Card. 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 mandatory for the upper floor.

27. The Appellant/Claimant has tendered the Voter ID Card (Annexure-F), Aadhar Card (Annexure-G) & Pan Card (Annexure-H) of her husband Manoj and Electricity Bill (Annexure-C). The documents, Annexure-F to Annexure-H, are not relevant to

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determine the eligibility of the present Appellant/Claimant. The Electricity Bill (Annexure-C) shows that the electricity connection was taken in the name of his mother Itwaro and it was energised on 10.06.2008. The facts remain that the Appellant/Claimant has not taken electricity connection on the address of first floor of Jhuggi No. A-172 regarding which she is claiming allotment from DDA. The documents, Annexure-C & Annexure-F 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 the Appellant/ Claimant was not having a Voter ID Card & separate Ration Card on the cut off date of 01.01.2015 and 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) & of the year of survey.

28. 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 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) & of the year of survey. 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 the Appellant/ Claimant was not having a Voter ID Card & separate Ration Card on the cut off date of 01.01.2015 and 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) & of the year of survey. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., 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) & of the year of survey. Therefore, she 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 her claim. There is no infirmity and illegality in the impugned order bearing No. 385/66/84.1.1/1495 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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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

16/2/2023

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

16/2/2023

(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: 597 of 2023

Date of Institution: 07.12.2022

Date of Order: 20.02.2023

Present: Appellant/ Claimant Savita Biswas W/o Ravi 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. B-100, 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-100 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

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Camp, duly communicated its order bearing No. 385/0/201.G/1692 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 597 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 08.02.2023. 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-100 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 & separate Ration 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.

7. The statement of the Appellant/ Claimant, Savita Biswas, has been recorded before us on 08.02.2023, wherein she has stated that she is married with Ravi Biswas and having

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two children, Mukesh and Jyoti. Mukesh is married with Adhuri and having one son Ayush. Jyoti is married with Prosenjit and she is living in her matrimonial home.

8. The Appellant/Claimant has stated that her family is having a triple storey Jhuggi No. B-100. The room on the first & second floors are not having independent access from the gali but the iron ladder placed inside the room on the ground floor has been used for going to the upper floors. Thus the admission of the Appellant/Claimant is a clincher piece of evidence and it shows that the upper floors were not having independent access from the gali but the iron ladder placed inside the room on ground floor has been used for going to the upper floor. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi but her claim has been wrongly rejected by DDA and aggrieved by the same she has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure G, and prayed that DDA be directed to make allotment in her favour.

9. DDA has furnished the survey records along with four video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 08.02.2023 wherein she has stated that in the video clips her Jhuggi on the ground floor is seen and an iron ladder is placed inside the ground floor room to go to the first floor. The video clips of the first and second floors were not made by the survey team. However, there is nothing to disbelieve the statement of the Appellant/Claimant to the effect that her Jhuggi was a triple storey Jhuggi. Thus the statement of the Appellant/Claimant as well as the survey records/video clip has duly proved that the triple storey pucca Jhuggi No. B-100 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and all the three floors are found to be part & parcel of one dwelling unit and further the Appellant/Claimant has been using the said Jhuggi for residential purposes.

10. Accordingly, we have no hesitation in holding that the Jhuggi No. B-100 is a pucca triple storey structure and its ground & upper floors are the part & parcel of the same dwelling unit bearing Jhuggi No. B-100 and the Appellant/ Claimant is living jointly with her family.

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11. Now we shall 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.

12. 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.

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 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

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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."

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.

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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.

16. The Appellant/Claimant has tendered her Voter ID Card ARE 2499853 (Annexure-A), Aadhar Card (Annexure-B) and Pan Card (Annexure-C).

17. It is pointed out that the Voter ID Card bearing No. ARE 2499853 (Annexure-A) has been issued on 07.01.2020, much after the cutoff date of 01.01.2015. Accordingly, the question of her name appearing in at least on 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 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 at least 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, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

18. The Appellant/Claimant has tendered the Voter ID Card bearing No. ARE 2499705 (Annexure-D), Aadhar Card (Annexure-E) and Pan Card (Annexure-F) of her husband Ravi Biswas and Ration Card (Annexure-G). The Voter ID Card bearing No. ARE 499705 (Annexure-D) of her husband Ravi Biswas has been issued on 07.01.2020, much after the cutoff date of 01.01.2015. This shows that neither the Appellant/Claimant nor her husband was having Voter ID Cards on the cut off date of 01.01.2015. The Ration Card (Annexure-G) shows that it has been issued in the name of the present Appellant/Claimant but the date of issuance has not been mentioned. The documents, Annexure-D 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 as 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 at least 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. 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 as her Voter ID Card bearing number ARE

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2499853 (Annexure-A) has been issued on 07.01.2020, much after the cutoff date of 01.01.2015 and 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. 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. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a valid Voter ID Card, on the cutoff date of 01.01.2015 and 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. Therefore, she 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 her claim. There is no infirmity and illegality in the impugned order bearing No. 385/0/201.G/1692 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: 536 of 2023

Date of Institution: 05.12.2022

Date of Order: 20.02.2023

Present: Appellant/ Claimant Vishal Saha S/o Biggan Saha

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-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. C-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

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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. 385/36/11.1/928 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 536 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 02.02.2023. 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-117 was found to exist on the first floor but he had failed to submit required documents, i.e., valid voter ID 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.

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 Voter ID Card & separate Ration Card, on the cutoff date of

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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.

7. The statement of the Appellant/Claimant Vishal Saha has been recorded before us on 02.02.2023, wherein he has stated that his parents, Biggan Saha & Sangeeta, are having two sons, namely, Vikas & Vishal Saha (Appellant/Claimant). Both the children are unmarried.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. C-117 in the Bhoomiheen Camp and it comprised of one room on the ground floor and two rooms on the first floor and there is a pucca staircase. His parents, Biggan Saha & Sangeeta, are living on the ground floor whereas his brother Vikas is living in one of the room on the first floor of the said Jhuggi No. C-117 and regarding the ground floor DDA has made allotment in favour of his mother Sangeeta. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that he is living in the second room on the first floor of the said Jhuggi No C-117. The Appellant/Claimant has sought allotment from DDA against the said room on the first floor but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-H, in support of his claim and prayed that DDA be directed to make alternative allotment in his favour as per the policy guidelines issued by DDA.

10. The Appellant/Claimant has categorically admitted that his date of birth is 06.07.1999 and in the Voter ID Card (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Driving License (Annexure-D) and Passport (Annexure-E) his date of birth is correctly recorded to be 06.07.1999. 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 and was not having any independent source of income and accordingly he was dependent on his parents. It is a matter of common observation that no prudent

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parents would allows their minor son to live separately & independently especially when he does not have income to support him. Furthermore, in the video clip furnished by DDA instead of Appellant/Claimant his father is seen on the first floor regarding which the Appellant/Claimant has been claiming allotment from DDA. This shows that Appellant/Claimant himself has not got conducted the survey. This accordingly shows that the Appellant/Claimant was not living separately & independently on the first floor of the Jhuggi No. C-117 but he was living jointly with his parents on the cutoff date of 01.01.2015.

11. DDA has furnished the survey records along with three video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 02.02.2023 wherein he has stated that in two video clips his mother Sangeeta is seen in her Jhuggi on the ground floor and in third video his father is seen on the first floor. Thus the statement of the Appellant/Claimant as well as the survey records/video clip has duly proved that a double storey Jhuggi No. C-117 of the family of the Appellant/Claimant was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was living jointly with his parents.

12. Accordingly, we have no hesitation in holding that the Jhuggi No. C-117 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 has been using the said double storey Jhuggi for residential purposes. The Appellant/Claimant was not living separately & independently on the first floor of the said Jhuggi No. C-117 but he was living jointly with his parents on the cutoff date of 01.01.2015.

13. Now we shall 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 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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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. 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 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

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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."

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 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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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 a Voter ID Card & separate Ration 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) & of the year of survey.

18. The Appellant/Claimant has tendered his Voter ID Card (Annexure-A), Aadhar Card (Annexure-B) and Pan Card (Annexure-C).

19. The Appellant/Claimant has categorically admitted that his date of birth is 06.07.1999. He has also further specifically stated that in Voter ID Card (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Driving License (Annexure-D) and Passport (Annexure-E) his date of birth is correctly recorded to be 06.07.1999. 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.

20. The Appellant/Claimant has tendered his Voter ID Card No. ARE 2182301 (Annexure-A), which has been issued on 15.02.2018, much after the cut off date of 01.01.2015 and accordingly the question of his name appearing in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) does not arise at all. The Appellant/Claimant has tendered the Voter List of the year 2019 (Annexure-H) in which his name appears at Sl. No. 642. But the fact remains that 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). Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a valid Voter ID Card on the cut off date of 01.01.2015 and further 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). Hence, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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21. The Appellant/Claimant has admitted that he is not having a separate Ration card. The admission is a clincher piece of evidence and it shows that the Appellant/Claimant is not having a separate ration card in spite of the fact that he is claiming allotment from DDA against the upper floor. Accordingly, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

22. The Appellant/Claimant has tendered his Driving License (Annexure-D), Passport (Annexure-E), Electricity Bill (Annexure-F) and Mark Sheet (Annexure-G). The Electricity Bill (Annexure-F) shows that the connection was taken in the name of father of the present Appellant/Claimant, Biggan Saha, on 11.06.2008. But the fact remains that there was no electricity connection on the first floor of the Jhuggi No. C-117 regarding which the Appellant/Claimant has been claiming allotment from DDA. The Mark Sheet (Annexure-G) has been issued on 23.07.2021, much after the cut off date of 01.01.2015. The documents, Annexure-D 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 less than 18 years of age on the cut off date of 01.01.2015 and further he was not having a separate Ration Card and Voter ID Card on the cutoff date of 01.01.2015 and his name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015).

23. 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 Voter ID Card No. ARE 2182301 (Annexure-A), which has been issued on 15.02.2018, much after the cut off date of 01.01.2015 and his name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and further he 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. 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 less than 18 years of age on the cut off date of 01.01.2015

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and further he was not having a separate Ration Card and Voter ID Card on the cutoff date of 01.01.2015 because the Voter ID Card No. ARE 2182301 (Annexure-A), which has been issued on 15.02.2018, much after the cut off date of 01.01.2015 and further his name also does not appear in any of 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 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. 385/36/11.1/928 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: 510 of 2023

Date of Institution: 02.12.2022

Date of Order: 20.02.2023

Present: Appellant/ Claimant Purnima Haldar W/o Deepak Haldar D/o Pobhas 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 she is living in Jhuggi bearing No. B-516, 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-516 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

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Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/19/48.G/822 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 510 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 31.01.2023. 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-516 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.

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7. The statement of the Appellant/ Claimant, Purnima, has been recorded before us on 31.01.2023, wherein she has stated that her in-laws, Santosh & Goilani, are having seven sons, namely, Govind, Ashok, Badal, Tapan, Dipankar, Deepak and Bimal. All the children are married. All the sons except Ashok and Deepak are living in West Bengal.

8. The Appellant/ Claimant has stated that Ashok is married with the Saraswati and having three children, namely, Tushar, Durvesh & Babli. Ashok with his family is living in Jhuggi No. B–123 and regarding that DDA has made allotment in favour of his wife Saraswati. These facts are not disputed by DDA.

9. The Appellant/ Claimant has stated that she is married with Deepak and having two children, Disha & Alok, and they are living in double story Jhuggi No. B – 516, which comprised of a kitchen on the ground floor and a room on the first floor, which has been used for residential purposes. There is an iron ladder, which has been placed inside the kitchen for going to the room on the upper floor. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi but her claim has been wrongly rejected by DDA and aggrieved by the same she has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure-F, and prayed that DDA be directed to make allotment in her favour.

10. The statement of the Appellant/Claimant is a clincher piece of evidence and it shows that the room on the first floor is not having independent access for ingress and egress form the gali but in order to reach to the room on the first floor one has to use the iron ladder placed in the kitchen on the ground floor. The ground floor & first floor are part and parcel of the single dwelling unit bearing Jhuggi No. B-516.

11. DDA has furnished the survey records along with five video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 31.01.2023 wherein she has stated that in the video clips she (Purnima-Appellant/Claimant) is seen standing in the kitchen on the ground floor of her Jhuggi and an iron ladder, which has been placed inside the kitchen for going to the room on the upper floor, is also seen. The video of her room on the first floor was not prepared. But there is nothing on file to disbelieve the statement of the Appellant/Claimant to the effect that the ground floor is used as kitchen and the first floor is used for living

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purposes. The room on the first floor is not having independent access for ingress and egress form the gali but in order to reach to the room on the first floor one has to use the iron ladder placed in the kitchen on the ground floor. The ground floor & first floor are part and parcel of the single dwelling unit. 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, which was a double storey structure, was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the ground floor is used as kitchen and the first floor is used for residential purposes.

12. Accordingly, we have no hesitation in holding that the Jhuggi No. B-516 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 said Jhuggi No. B-516 for residential purposes.

13. Now we shall 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.

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-F, 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.

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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.

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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."

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 a 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.

18. The Appellant/Claimant has tendered her Voter ID Card bearing No. ARE 2037835 (Annexure-A), Aadhar Card (Annexure-B) and Pan Card (Annexure-C).

19. It is pointed out that the Voter ID Card bearing No. ARE 2037835 (Annexure-A) has been issued on 18.03.2015, much after the cutoff date of 01.01.2015. Accordingly, the question of her name appearing in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) does not arise at all. Moreover, the Appellant/Claimant has not tendered the Voter List of 2019 to show that she had used the Voter ID Card bearing No. ARE 2037835 (Annexure-A) 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 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. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

20. The Appellant/Claimant has tendered the Voter ID Card bearing No. ARE 1539534 (Annexure-D) of her husband Deepak, Ration Card (Annexure-E) and Electricity Bill (Annexure-F). The Voter ID Card bearing No. ARE 1539534 (Annexure-D) of her husband Deepak has been issued on 12.03.2012 but it is pointed out that this document is not relevant to determine the eligibility of the present Appellant/Claimant. The Ration Card (Annexure-E) shows that it has been issued in the name of the present Appellant/Claimant on 01.02.2018, much after the cutoff date of 01.01.2015. The Electricity Bill (Annexure-F) shows that the electricity connection was taken in the name of the present Appellant/Claimant on 03.06.2015, much after the cutoff date of 01.01.2015. The documents, Annexure-D 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 as 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 at least 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. 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 as her Voter ID Card bearing number ARE 2037835 (Annexure-A) has been issued on 18.03.2015, much after the cutoff date of 01.01.2015 and 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. 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. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a valid Voter ID Card, on the cutoff date of 01.01.2015 and 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. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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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. 385/19/48.G/822 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.

(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: 116 of 2022

Date of Institution: 22.11.2022

Date of Order: 20.02.2023

Present: Appellant/ Claimant Reshma (since deceased) widow of Raja Ram D/o Vikram through her legal heir Mani Ram (son) S/o Raja 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 Reshma (since deceased) widow of Raja Ram D/o Vikram through her legal heir Mani Ram (son) S/o Raja Ram 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-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 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-117 was

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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. 385/45/006.G/1099 dated 07.11.2022 to the legal heirs of the present Appellant/ Claimant, who has since died on 27.01.2022. Aggrieved by the same, the present Appeal No. 116 of 2022 has been filed by her legal heir Mani Ram (son of Appellant/Claimant) S/o Raja Ram.

3. In response to the notice, Mani Ram, legal heir of the present Appellant/ Claimant, Reshma (since deceased) 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 Raja Ram has been recorded before us on 02.02.2023 and he has tendered documents Annexure- A to Annexure- L in support of the claim of the present Appellant/ Claimant, Reshma (since deceased). DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by Mani Ram, legal heir of the present Appellant/ Claimant, Reshma (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. A-117 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 heirs of the present Appellant/ Claimant, Reshma (since deceased), who has since died on 27.01.2022 by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter ID Card not verified"** and aggrieved by the same the present appeal has been filed before us by the Appellant/ Claimant Reshma (since deceased) widow of Raja Ram D/o Vikram through her legal heir Mani Ram (son) S/o Raja Ram against order dated 07.11.2022 passed by the Eligibility Determination Committee.

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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 the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

7. The statement of Raja Ram, who is the husband of the Appellant/ Claimant Reshma (since deceased), has been recorded before us on 02.02.2023, wherein he has stated that he is married with Resham and having five sons, namely, Kanhaiya, Hari Ram, Maniram, Dhani Ram & Govind and two daughters, namely, Ram Rarti & Shyam Rati. All the children are married. Kanhaiya and Hari Ram along with their respective families are living in Gurgaon. Dhani Ram and Govind along with their respective families are living in Noida. Both the daughters Ram Rarti and Shyam Rati are living in their respective matrimonial homes in Uttar Pradesh. Whereas Maniram along with his family has been living in Bhoomiheen Camp with his parents Raja Ram & Resham.

8. Raja Ram is the husband of the Appellant/ Claimant Reshma (since deceased). Raja Ram has stated that he is having a single storey Jhuggi No. A-117 and he along with his wife Reshma as well as the family of his son Mani Ram has been living in the said Jhuggi No. A-117 and regarding that his wife Reshma has sought allotment from DDA. But her claim has been rejected by DDA and aggrieved by the same, the present Appeal No. 116 of 2022 has been filed by her legal heir Mani Ram (son) S/o Raja Ram because Reshma had died on 27.01.2022 and her death certificate is Annexure-D. Raja Ram has also tendered documents, Annexure- A to Annexure L, and prayed that DDA be directed to make allotment in her favour.

9. DDA has furnished the survey records along with two video clips. The video clips were played before Raja Ram when his statement was recorded before us on 02.02.2023 wherein he has stated that in the video clips he (Raja Ram) is seen in the Jhuggi and also heard of making a statement that he along with one of his son is living there. Thus the statement of Raja Ram as well as the survey records/video clips has duly proved that the single storey Jhuggi No. A-117 was in existence in the Bhoomiheen Camp on the cut off

date of 01.01.2015 and the Appellant/ Claimant Reshma (since deceased) and her family has been using the said Jhuggi for residential purposes.

10. Accordingly, we have no hesitation in holding that the Jhuggi No. A-117 in Bhoomiheen Camp is a single storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/ Claimant Reshma (since deceased) and her family has been using the said Jhuggi for residential purposes.

11. Now we shall appraise the material placed on file to determine as to whether the Appellant/ Claimant Reshma (since deceased) 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.

12. Raja Ram has stated that the claim of the Appellant/ Claimant Reshma (since deceased) has been wrongly rejected by DDA. Raja Ram has tendered documents, Annexure-A to Annexure-L, in support of the claim of the Appellant/ Claimant 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**
> **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.

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

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

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

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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 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.

16. Raja Ram has tendered the Voter ID Card No. ARE 2585701 (Annexure-A) Aadhar Card (Annexure-B) & Pan Card (Annexure-C) of the Appellant/ Claimant Reshma (since deceased).

17. Raja Ram has specifically stated the Appellant/ Claimant Reshma (since deceased) was his wife and she did not possess a Voter ID card in her lifetime. She had applied for issuance of the Voter ID card but the same has been received on 19.03.2022 much after her death on 27.01.2022. It is the admitted fact that Reshma had died on 27.01.2022 and her death certificate is Annexure-D. This shows that the Voter ID Card No. ARE 2585701 (Annexure-A) has been issued on 19.03.2022, much after the cutoff date of 01.01.2015 and accordingly the question of her name appearing in at least on 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.

18. The admission of Raja Ram is a clincher piece of evidence thereby showing that Reshma did not possess any Voter ID Card in her life time issued on the address of Jhuggi No. A-117 regarding which she is claiming allotment from DDA. Therefore, the Voter ID Card (Annexure-A) is not relevant because it has been issued after her death on 27.01.2022 and also much after the cutoff date of 01.01.2015. Accordingly, 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 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, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

19. Raja Ram has tendered the old Ration Card (Annexure- K) issued in favour of Raja Ram but the name of Reshma is not mentioned. He has tendered the new Ration Card (Annexure-E) issued in the name of Reshma on 10.09.2014. Raja Ram has also tendered his Voter List of 2019 (Annexure-F), Voter ID Card (Annexure-G), Aadhar Card (Annexure-H), Pan Card (Annexure-I), Pass Book of Union Bank (Annexure-J) & Electricity Bill (Annexure-L). The documents, Annexure-E to Annexure-L, are of no help to the Appellant/ Claimant Reshma (since deceased) because these documents do not create any right, title or interest in her favour to claim allotment from DDA because the Appellant/ Claimant was not having the requisite mandatory document, i.e., a valid Voter ID Card, on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-117 regarding which she is claiming allotment from DDA 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. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

20. The material placed on file shows that the Appellant/ Claimant Reshma (since deceased) was not having the requisite mandatory document, i.e., a valid Voter ID Card, on the cutoff date of 01.01.2015 and 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. Therefore, she 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 his claim. There is no infirmity and illegality in the impugned order bearing No. 385/45/006.G/1099 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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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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(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: 487 of 2023

Date of Institution: 01.12.2022

Date of Order: 21.02.2023

Present: Appellant/ Claimant Ashit Kumar Boiragi S/o Dev 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. B-217, 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-217 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. 385/26/160.1/898 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 487 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 30.01.2023. 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 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-217 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid voter ID Card, separate 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.

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 Voter ID card & separate Ration Card, on the cutoff date of 01.01.2015 and also whether his name also 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.

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7. The statement of the Appellant/ Claimant has been recorded before us on 30.01.2023, wherein he has stated that his parents, Dev Prasad & Aparna, are having two sons, namely, Ashutosh and Ashit. Ashutosh is unmarried whereas Ashit (Appellant/ Claimant) is married with Lata and having one son Taksh.

8. The Appellant/ Claimant has stated that his family is having a double storey Jhuggi No. B-217 and his parents, Dev Prasad & Aparna, along with their unmarried son Ashutosh are living on the ground floor of Jhuggi No. B-217 and regarding that DDA has made allotment in favour of his mother Aparna. These facts are not disputed by DDA.

9. The Appellant/Claimant has further stated that he along with his wife Lata & son Taksh is living on the first floor of the said Jhuggi bearing No. B-217. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure G, and prayed that DDA be directed to make allotment in his favour.

10. The Appellant/Claimant has specifically stated that he was married on 11.10.2019 and before his marriage he used to live in Gurugram as he was working there. After his marriage in 2019 he had shifted to Bhoomiheen Camp in order to live with his parents and started living separately on the first floor of the Jhuggi of his parents bearing number B-217. The admission of the Appellant/Claimant is a clincher piece of evidence thereby showing that on the cut off date of 01.01.2015 he was not living in Bhoomiheen Camp but he had shifted there in 2019 and got the survey conducted in collusion with his parents to Claim allotment from DDA by hook or crook.

11. DDA has furnished the survey records along with seven video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 30.01.2023 wherein he has stated that in the four video clips his mother Aparana is seen standing inside the room of her ground floor Jhuggi No. B-217 and her room & kitchen are also clearly seen whereas in the next three videos he (Ashit- Appellant/Claimant) is seen

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standing in his Jhuggi on the first floor and in these clips his room & kitchen is also clearly seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi of the Appellant/Claimant bearing Jhuggi No. B-217 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015. But the Appellant/ Claimant & his family has shifted to Bhoomiheen Camp in the year 2019 and therefore, he was not living on the first floor of Jhuggi No. B-217 on the cut off date of 01.01.2015.

12. Accordingly, we have no hesitation in holding that the Jhuggi No. B-217 in Bhoomiheen Camp is a double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 but the Appellant/ Claimant & his family has shifted to Bhoomiheen Camp in the year 2019 and therefore, he was not living on the first floor of Jhuggi No. B-217 on the cut off date of 01.01.2015 and accordingly he is not entitled to claim allotment from DDA as per the policy of DDA.

13. Now we shall first appraise the material placed on file to determine eligibility of the Appellant/ Claimant on other parameters to decide as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and also whether his name also 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.

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

15. 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

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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 valid Voter ID Card & joint Ration Card with her family and further 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. 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. 385/7/6.1/1601 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.
> 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,

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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

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

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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

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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 was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and also whether his name also 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.

22. The Appellant/Claimant has tendered his Voter ID Card No. ARE 2186153 (Annexure-A), Aadhar Card (Annexure-B) and Pan Card (Annexure-C).

23. It is also pertinent to point out that the Appellant/Claimant has tendered his Voter ID Card No. ARE 2186153 Annexure-A, which has been issued on 24.04.2018, much after the cut off date of 01.01.2015. He has also stated that his date of birth is 17.07.1997 and that has been correctly recorded in his Voter ID Card No. ARE 2186153 (Annexure-A), Aadhar Card (Annexure-B) and Pan Card (Annexure-C). 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 and accordingly issuance of Voter ID Card in his favour on the cut off date of 01.01.2015 does not arise. 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 and he does not have a Voter ID Card and accordingly his name appearing in in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) survey does not arise. It is pointed out that the Appellant/Claimant has also not tendered the voter list of the year 2019 to show that he had casted his vote by using Voter ID Card No. ARE 2186153 (Annexure-A) in the year 2019 and accordingly there is no material to show that his name appears in the year of survey. Consequently, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by

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DDA because he was less than 18 years of age on the cut off date of 01.01.2015 and he does not have a Voter ID Card on the cut off date of 01.01.2015 and further his name also does not appear in in at least 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. Furthermore, the Appellant/Claimant has specifically admitted that he is not having a separate ration card. Consequently, 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 because he is claiming allotment against upper floor.

25. The Appellant/Claimant has tendered the Aadhar Card (Annexure-D) & Pan Card (Annexure-E) of his wife Lata, Pass Book of SBI (Annexure-F) and the Electricity Bill (Annexure-G). It is pointed out that in the Pass Book of SBI (Annexure-F) the date of opening of account is not mentioned. The Electricity Bill (Annexure-G) shows that the electricity connection has been taken in the name of his father Dev Prasad on 21.06.2008. The Appellant/Claimant was not having separate electricity connection but he was using the electricity from the connection of his father Dev Prasad. Therefore, the documents, Annexure-D 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 the Appellant/Claimant was minor further he was neither having a Voter ID Card nor a separate Ration Card on the cut off 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.

26. The material placed on file shows that the Appellant/ Claimant was less than 18 years of age on the cut off date of 01.01.2015 and he does not have a Voter ID Card & separate Ration Card on the cut off date of 01.01.2015 and further his name also does appear in in at least on 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 & his family was not living on the first floor of Jhuggi No. B-217 on the cut off date of 01.01.2015 as he has shifted to Bhoomiheen Camp in the year 2019 and accordingly he is not entitled to claim allotment

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from DDA as per the policy of DDA. 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. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was less than 18 years of age on the cut off date of 01.01.2015 and he does not have a Voter ID Card & separate Ration Card on the cut off date of 01.01.2015 and further his name also does appear in in at least 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, he 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. 385/26/160.1/898 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)
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: 109 of 2022

Date of Institution: 22.11.2022

Date of Order: 21.02.2023

Present: Appellant/ Claimant Pallabh Haldar S/o Tarak 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-139/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-139/A

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was found to exist on the upper floor but it was noticed that allotment has been made in favour of his wife Krishna and as per the policy guidelines wife and husband cannot be considered separately 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. 385/36/50.1/956 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 109 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 06.02.2023. 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-139/A was found to exist on the upper floor but he had failed to submit required documents, i.e., 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 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 Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further

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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.

7. The statement of the Appellant/ Claimant, Pallabh Haldar, has been recorded before us on 06.02.2023, wherein he has stated that his father Tarak had died in the year 2000 and mother Shanti had died in 2001. He is married with Krishna and having two sons, namely, Sudipto & Sumit.

8. The Appellant/Claimant has stated that he is having a double storey Jhuggi No. C-139. His wife Krishna had sought allotment from DDA regarding the room on the ground floor bearing Jhuggi No. C-139 and DDA has made allotment in her favour against the said Jhuggi. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that he has also sought allotment from DDA against the first floor of the said Jhuggi No. C-139 but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure H, and prayed that DDA be directed to make allotment in his favour.

10. DDA has furnished the survey records along with three video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 06.02.2023 wherein he has stated that in two video clips his aunt Renuka is seen standing in the Jhuggi on the ground floor and also heard saying that her name is Renuka but some person is also heard of dictating her to tell her name to be Krishna. In the second video clip his aunt Renuka is seen and holding a slate on which "Krishna Haldar C-139/G" is written and she is also heard of stating that her name is Krishna. The Appellant/Claimant has tried to explain by stating that his wife Krishna had gone to village at the time of survey and accordingly the survey was conducted by his aunt Renuka in place of his wife Krishna. It is pointed out that even if the explanation put forward by the Appellant/Claimant is taken to be gospel truth then also it creates doubt and suspicion about the manner in which the survey was got conducted by impersonation. If his wife Krishna had gone to the village and was not available in Bhoomiheen Camp to get the survey conducted personally then in that

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eventuality the Appellant/Claimant would have himself got the survey conducted for and on behalf of his wife Krishna but very surprisingly he had chosen to get the survey conducted with the help of his aunt Renuka. This shows that the Appellant/Claimant did it fraudulently as he was desperately trying to get second allotment from DDA by submitting his separate claim and he knew that if he got the survey conducted on behalf of his wife Krishna then it would weaken his claim.

11. The Appellant/Claimant has also stated that in the third video clip he is seen standing in front of locked Jhuggi on the first floor and he is also heard of making statement that the keys are with his wife. This creates dent in the story put forward by the Appellant/Claimant because on the one hand he has taken the stand that his wife Krishna had gone to village at the time of survey and accordingly the survey pertaining to the Jhuggi on the ground floor was got conducted by his aunt Renuka on behalf of his wife Krishna but on the other hand with regard to the locked Jhuggi on the first floor he has taken the contrary stand that the keys are with his wife Krishna thereby showing that his wife was very much in Delhi at the time of survey but she has intentionally come forward to get the survey conducted.

12. The material placed on file shows that the Appellant/Claimant along with his wife Krishna & children have been living jointly in the double storey Jhuggi No. C-139A and regarding that DDA has already made allotment in favour of his wife Krishna. Both the spouse, Pallab Haldar & Krishna, constitute one & the same family and not different family and accordingly, the claim of the present Appellant/ Claimant is hit by condition contained in Part–B Para 10 of DDA policy, which 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."

13. As mentioned above both the spouse, Pallab Haldar & Krishna, constitute one & the same family and not different family and since DDA has made allotment in favour of Krishna, therefore, this husband Pallab Haldar (Appellant/Claimant) is not eligible to claim second allotment against that very Jhuggi No. C-139A. Two allotments are not permissible against

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one dwelling unit as per the guidelines issued by DDA. But the Appellant/Claimant in collusion with his family members has tried to get maximum allotments from DDA by hook or crook by concocting a wrong & false story that he was living separately & independently on the first floor of the said Jhuggi No. C-139/A.

14. Accordingly, we have no hesitation in holding that the Jhuggi No. C-139/A is a double storey structure and regarding which DDA has already made allotment in favour of Krishna W/o Pallab Haldar (Appellant/Claimant). Two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA. 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 the required documents, including Voter ID Card & a separate Ration 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.

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-H, 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 has claimed allotment against the upper floor but he is not having a Ration Card issued. 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 and further his name does not 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. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/36/50.1/956 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 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.

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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.

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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 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.

24. The Appellant/Claimant has admitted that he is not having a separate Ration Card on the address of first floor of the Jhuggi No. C-139/A regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered old Ration Card (Annexure-F), which has been issued in the name of his aunt "Renu" on 01.06. 007 but the name of the present Appellant/Claimant is not mentioned. The Appellant/Claimant has also tendered new Ration Card (Annexure-G), which has been issued in the sole name of his aunt "Renuka" and further the date of issuance is also not mentioned. The Appellant/Claimant has specifically stated that he had made application (Annexure-H) after the cutoff date of 01.01.2015 for adding his name in the ration card of Renuka. But the fact remains that the Appellant/Claimant was not having a separate ration card issued on the address of first floor of jhuggi No. C-139/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 mandatory for the upper floor.

25. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1168269 (Annexure-A) issued on 25.01.2010, Aadhar Card (Annexure-B), Pan Card (Annexure-C), Electricity Bill (Annexure-D) and Pass Book of United Bank of India (Annexure-E).

26. The Electricity Bill (Annexure-D) shows that Renuka has taken the electricity connection on 09.06.2008 on Jhuggi No. C-139A. It is surprising that Renuka was not living in Bhoomiheen Camp and it has not been satisfactorily explained as to how she has got the electricity connection issued in her name on the address of Jhuggi No. C-139A regarding which both the Appellant/Claimant and his wife Krishna are seeking two separate allotments from DDA. The fact remains that neither the Appellant/Claimant nor his wife Krishna has taken electricity connection in their name. It is pointed out that Voter ID Card bearing number

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ARE 1168269 (Annexure-A) has been issued on 25.01.2010, much prior to the cutoff date of 01.01.2015. But no material is placed on file by the Appellant/Claimant in order to show that he had casted of his vote by using the above-mentioned Voter ID Card bearing number ARE 1168269 (Annexure-A) in 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 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. Therefore, 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 because 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. C-139/A regarding which he is claiming allotment from DDA and further 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 and further two allotments against the same dwelling unit are not permissible.

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. 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 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 and also regarding the Jhuggi No. C-139/A DDA has already made allotment in favour of his wife Krishna and accordingly the Appellant/ Claimant, who is the husband of Krishna, is not entitled to claim second allotment. Two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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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. 385/36/50.1/956 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: 581 of 2023

Date of Institution: 07.12.2022

Date of Order: 21.02.2023

Present: Appellant/ Claimant Indal Kumar S/o Kailash 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. C-195, 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-195 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. 385/26/10.1/833 dated

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07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 581 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 07.02.2023. 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. C-195 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 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"** 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 & 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.

7. The statement of the Appellant/ Claimant, Indal, has been recorded before us on 07.02.2023, wherein he has stated that his parents, Kailash Prasad & Kamli Devi, are having

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four sons, namely, Bablu, Indal (Appellant/ Claimant), Davender & Pankaj and two daughters, namely, Rekha & Arti. Pankaj, Rekha & Arti are unmarried whereas all others are married. His parents, Kailash Prasad & Kamli Devi, as well as Bablu, Davender, Pankaj, Rekha & Arti are living in their native village Bhuna Bujurg, Azamgarh, Uttar Pradesh. But Indal along with his wife Ruma & Children, Muskan & Abhi, is living in Bhoomiheen Camp.

8. The Appellant/ Claimant has stated that Rajesh S/o Bali Ram, who hails from his village Bhuna Bujurg, Azamgarh, Uttar Pradesh is having a double storey Jhuggi No. C-195 and when the Appellant/ Claimant had come to live in Delhi Rajesh had permitted him to live on the first floor of his Jhuggi. However, it is pertinent to point out that the Appellant/ Claimant has not disclosed as to when he had come to live in Delhi and more specifically as to whether he had come to live on the first floor of his Jhuggi No. C-195 either before or after the cutoff date of 01.01.2015. This shows that he is trying to conceal material facts. The material placed on file shows that the Appellant/ Claimant is living on the first floor of Jhuggi No. C-195 as Licensee under Rajesh S/o Baliram. Admittedly DDA has made allotment in favour of Rajesh S/o Baliram and accordingly he had colluded with the present Appellant/Claimant by concocting a wrong and false story in order to claim second allotment against the same dwelling unit. This shows that the Appellant/ Claimant has dishonestly and fraudulently tried to cheat and defraud DDA to claim allotment by hook and crook.

9. The Appellant/ Claimant has stated that Rajesh S/o Bali Ram has been living on the ground floor of the said Jhuggi No. C-195 and regarding that DDA has made allotment in favour of Rajesh. These facts are not disputed by DDA.

10. The Appellant/ Claimant has further stated that he along with his wife Ruma & Children, Muskan & Abhi is living on the first floor of the said Jhuggi No. C-195. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. C-195. But his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure E, and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished the survey records along with two video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 07.02.2023

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wherein he has stated that in one of the video clip Rajesh S/o Bali Ram is seen in Jhuggi No. C-195 and in the second video clip he (Indal- Appellant/Claimant) is seen on the first floor of Jhuggi No. C-195. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca double storey Jhuggi No. C-195 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/ Claimant & his family lived on the first floor of the said Jhuggi as licensee under Rajesh S/o Baliram.

12. Accordingly, we have no hesitation in holding that the Jhuggi No. C-195 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 lived on the first floor of the said Jhuggi as licensee under Rajesh S/o Baliram.

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 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.

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 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-

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2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/26/10.1/833 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.
> 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 isbeing 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

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

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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 appear in at least 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 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.

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22. The Appellant/Claimant has tendered his Voter ID Card (Annexure-A), Aadhar Card (Annexure-B) & Pan Card (Annexure-C).

23. The Voter ID Card (Annexure-A) bearing No. ARE 2610848 has been issued on 07.12.2022, much after the cutoff date of 01.01.2015. Accordingly, the question of his name appearing in at least on 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 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 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, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

24. The Appellant/Claimant has admitted that he is not having a separate Ration Card on the address of first floor of the Jhuggi No. C-195 regarding which he is claiming allotment from DDA. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA because he is claiming allotment against upper floor.

25. The Appellant/Claimant has tendered his Pass Book of BOI (Annexure-D) and Electricity Bill (Annexure-E). The Pass Book of BOI (Annexure-D) shows that the account was opened on 28.08.2014. The Electricity Bill (Annexure-E) shows that the electricity connection has been taken on 26.06.2008 in the name of Bali Ram S/o Ram Dhani (father of Rajesh Baliram), on the ground floor of Jhuggi No. C-195. The fact remains that the Appellant/Claimant has not taken electricity connection on the address of first floor of the Jhuggi No. C-195 regarding which he is claiming allotment from DDA. 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 his favour to claim allotment from DDA because the Appellant/ Claimant was not having a Voter ID Card & Ration 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.

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

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at least on 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-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. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a valid Voter ID Card & a separate Ration Card, on the cutoff 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, he 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. 385/26/10.1/833 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: 575 of 2023

Date of Institution: 06.12.2022

Date of Order: 21.02.2023

Present: Appellant/ Claimant Neha Joshi W/o Deepak

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. D-92, 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-195 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. 385/64/054.G/1424 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 575 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 07.02.2023. 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. D-92 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 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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7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant for claiming allotment against the first floor. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was living on the first floor of Jhuggi bearing No. D-92 and having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further as to whether the ground floor & upper floor of Jhuggi bearing No. D-92 are separate & independent dwelling units or they are part & parcel of single dwelling unit for all purposes and whether the present Appellant/Claimant is entitled to claim allotment against the said Jhuggi as per policy of DDA.

8. The statement of the Appellant/ Claimant, Neha, has been recorded before us on 07.02.2023, wherein she has stated that her in-laws, Ramdutt & Devki, are having two sons, namely, Deepak & Sanjay and two daughters, Basanti & Manju. All except Sanjay are married. Basanti and Manju are living in their respective matrimonial homes in Kalkaji Delhi and Uttarakhand. Deepak is married with Neha (Appellant/Claimant) and having two children, Avni & Ananya.

9. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. D-92 comprising of one room on the ground floor and one room on the first floor. The room on the first floor is not having independent access from the gali but the iron ladder placed inside the room on the ground floor has been used for going to the first floor. Thus the admission of the Appellant/Claimant is a clincher piece of evidence and it shows that the upper floor was not having independent access from the gali but the iron ladder placed inside the room on ground floor has been used for going to the upper floor. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi but her claim has been wrongly rejected by DDA and aggrieved by the same she has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure H, and prayed that DDA be directed to make allotment in her favour.

10. DDA has furnished the survey records along with five video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 07.02.2023 wherein she has stated that in the five video clips a room on the ground floor is seen and an

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iron ladder placed inside the ground floor room to go to the first floor is also seen. Further in these video clips a kitchen is seen on the first floor.

11. Accordingly, we have no hesitation in holding that the Jhuggi No. D-92 is a pucca double storey structure and its ground & first floors are the part & parcel of the same dwelling unit bearing Jhuggi No. D-92 and the Appellant/ Claimant is living jointly with her family and having a joint kitchen.

12. Now we shall 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.

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-H, 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**
> **<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.

<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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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 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.

17. The Appellant/Claimant has categorically admitted that she is not having a Voter ID Card till today. 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 accordingly the question of her name appearing in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise and therefore she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

18. The Appellant/Claimant has tendered the Voter ID Card No. ARE 2100204 (Annexure-C) and Voter List (Annexure-H) of her husband Deepak. But it is pointed out that this Voter ID Card has been issued on 10.03.2016, much after the cut off date of 01.01.2015.

19. The Appellant/Claimant has also tendered her Aadhar Card (Annexure-A) & Pan Card (Annexure-B) as well as the Voter ID Card No. ARE 2100204 (Annexure-C), Aadhar Card (Annexure-D) & Pan Card (Annexure-E) of her husband Deepak and RC of two wheeler (Annexure-F), Pass Book of Corporation Bank (Annexure-G) of the Appellant/Claimant & Voter List (Annexure-H) of her husband Deepak. It is pointed out that the Aadhar Card (Annexure-A) has been issued on 07.08.2015 whereas the Voter ID Card No. ARE 2100204

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(Annexure-C) has been issued on 10.03.2016 and Aadhar Card (Annexure-D) has been issued on 24.03.2018 and accordingly all these documents have been issued much after the cut off date of 01.01.2015. The RC of two wheeler (Annexure-F) has been issued on 06.09.2019 and Pass Book of Corporation Bank (Annexure-G) shows that the account has been opened on 25.04.2018. Therefore, these documents have been issued much after the cut off date of 01.01.2015. Hence all these 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 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 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.

20. 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. 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. 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 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 and accordingly she 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 his claim. There is no infirmity and illegality in the impugned order bearing No. 385/64/054.G/1424 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

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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.

21/2/2023

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

21/2/2023

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

21/2/23

(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: 62 of 2022

Date of Institution: 21.11.2022

Date of Order: 22.02.2023

Present: Appellant/Claimant Chander Pal Kashyap S/o Om Pal Kashyap

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-101, 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-101 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. 385/36/25.1/939 dated

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07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No.62 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 24.01.2023. 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-101 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 valid Voter ID Card & a separate Ration 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.

8. The statement of the Appellant/Claimant has been recorded before us on 24.01.2023, wherein he has stated that his parents, Om Pal & Somvati, are having three sons, namely, Chanderpal (Appellant/Claimant), Sourabh & Gaurav and one daughter, namely, Seema.

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All the children except Somnath & Seema are married. Gaurav expired about 2-3 years back. Chanderpal is married with Rajrani and having two children, Arohi & Nitin.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi bearing No. C-101. His parents, Om Pal & Somvati, are living on the ground floor of the said Jhuggi No. C–101 along with their unmarried children Saurabh & Seema and regarding that DDA has made allotment in favour of his mother Somvati. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that he along with his wife Raj Rani and two children, Arohi & Nitin, is living on the first floor of the Jhuggi No. C-101 in Bhoomiheen Camp. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. C-101 but his claim has been rejected by EDC and accordingly aggrieved by the same he has filed Appeal No. 62 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make alternative allotment in his favour as per the policy guidelines issued by DDA.

11. DDA has furnished the survey records along with two video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 24.01.2023 wherein he has stated that in one video clip his mother Somvati is seen in her Jhuggi on the ground floor of Jhuggi No. C-101. Further in the second video clip his wife Raj Rani is seen in the Jhuggi 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 pucca Jhuggi No. C-101 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.

12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-101 in 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 Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his 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.

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 cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is having a joint Ration Card with his mother, Somvati. 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. 385/36/25.1/939 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.
> 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).

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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.

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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 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 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.

22. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1905108 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Driving licence (Annexure -D), Voter list of the year 2015 (Annexure-J) and Voter list of the year 2019 (Annexure-K).

23. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1905108 (Annexure-A), which has been issued on 25.03.2014, much prior to the cut off date of 01.01.2015. The Appellant/Claimant has also tendered the Voter list of the year 2015 (Annexure-J) in which his name appears at Sl. No. 584 and the Voter list of the year 2019 (Annexure-K) in which his name appears at Sl. No. 573. 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 and 2019 (prior to 01-01-2015) & also in the year of survey.

24. 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. C-101 regarding which he is claiming

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allotment from DDA. He has tendered Joint Ration Card (Annexure-L) issued on 18.09.2014, in which the names of the family members, including that of the present Appellant/ Claimant, have been mentioned. But the fact remains that the Appellant/ Claimant is not having a separate Ration card despite of the fact that he is claiming allotment 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.

25. The Appellant/Claimant has tendered the Voter ID Card (Annexure-E), Aadhar Card (Annexure-F) & Pan Card (Annexure-G) of his wife Raj Rani as well as Pass Book of ESAF (Annexure-H) and the Electricity Bill(Annexure-I). It is pointed out that the Electricity Bill (Annexure-I) shows that the electricity connection has been taken by his mother Somvati on 07.10.2013. There was no separate electricity connection for the first floor regarding which the Appellant/Claimant is claiming allotment from DDA. The documents, Annexure-E 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. 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-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. 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 made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No.

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385/36/25.1/939 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: 115 of 2022

Date of Institution: 22.11.2022

Date of Order: 22.02.2023

Present: Appellant/ Claimant Nirmala W/o Subhash

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-594, 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-594 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

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Camp, duly communicated its order bearing No. 385/44/68.1/1095 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 115 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 01.02.2023. 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 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-594 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.

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 Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015.

7. The statement of the Appellant/ Claimant, Nirmala, has been recorded before us on 01.02.2023, wherein she has stated that her in-laws, Sish Pal & Maya, are having two

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sons, namely, Subhash & Ajay and two daughters, namely, Sujata & Geetu. Sishpal has expired in the year 2006. All the children are married. Sujata & Geetu are living in their respective matrimonial homes in village Tigri and NOIDA, respectively. Subhash is married with Nirmala (Appellant/Claimant) and having three children, namely, Sumit, Nisha & Nitin. Subhash had expired on 09.07.2020 and his death certificate is Annexure-G. Ajay is married with Anju and having two sons, Rishi & Anuj.

8. The Appellant/ Claimant has stated that her family is having a triple storey Jhuggi No. B-594 and it comprised of one room each on all the three floors. Her mother-in-law, Maya, is living on the ground floor of the said Jhuggi No. B-594 and regarding that DDA has made allotment in favour of Maya. These facts are not disputed by DDA.

9. The Appellant/ Claimant has also stated that Anju along with her husband Ajay & two sons, Rishi & Anuj, is living on the second floor of the said Jhuggi No. B-594 and has sought allotment from DDA. But her claim has been rejected by DDA and aggrieved by the same Anju has filed Appeal No. 107 of 2022 before the Appellate Authority for redressal.

10. The Appellant/ Claimant, Nirmala, has further stated that she along with her three children, Sumit, Nisha & Nitin, is living on the first floor of the said Jhuggi No. B-594 and has sought allotment from DDA. But her claim has been rejected by DDA and aggrieved by the same Nirmala has filed Appeal No. 115 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure I, and prayed that DDA be directed to make allotment in her favour.

11. It is pointed out that both the Appeals No. 107 of 2022 and 115 of 2022 shall be decided separately on their respective merits.

12. DDA has furnished the survey records along with eleven video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 01.02.2023 wherein she has stated that in the five video clip her mother-in-law, Maya, is seen in her Jhuggi on the ground floor and in the four video clips she (Nirmala-Appellant/Claimant) is seen in her Jhuggi on the first floor whereas in two video clips Anju is seen in her Jhuggi on the second floor. Thus the statement of the

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Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. B-594 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.

13. Accordingly, we have no hesitation in holding that the Jhuggi No. B-594 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 the Appellant/Claimant has been 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 she is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.

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 having a joint Ration Card with his mother-in-law, Maya. 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 even if she possesses a Voter ID Card on the cut off date of 01.01.2015 and 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. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/44/68.1/1095 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 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

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.

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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 appear in at least 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. 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 & 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.

22. The Appellant/Claimant has tendered her Voter ID Card No. CXY 1072008 (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 the Voter ID Card bearing No. CXY 1072008 (Annexure-A) of the present Appellant/Claimant has been issued on 06.03.2002, much prior to the cutoff date of 01.01.2015. Further the name of the present Appellant/Claimant appears at Sl. No. 855 in Voter List of the year 2012 (Annexure-H) and at Sl. 987 in the Voter List of the year 2019 (Annexure-I). Further the Voter ID Card bearing No. CXY 1072008 and address B-594 have been mentioned in the both the Voter lists, Annexure-H & 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 at least 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 determine whether the Appellant/Claimant was having separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. B-594 regarding which she is claiming allotment against DDA.

25. The Appellant/Claimant has also tendered the Voter ID Card No. DL/03/035/246087 (Annexure-D) of her husband Subhash as well as the Ration Card (Annexure-E) and Electricity Bill (Annexure-F).

26. It is pointed out that the Voter ID Card bearing No. DL/03/035/246087 (Annexure-D) has been issued on 15.03.1995, much prior the cutoff date of 01.01.2015. The Ration Card (Annexure-E) shows that it has been issued in favour of her mother-in-law, Maya,

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and the names of the family members, including the name of the present Appellant/Claimant, has been mentioned. Furthermore, the date of issuance of this Ration Card (Annexure-E) has not been mentioned. The fact remains that the Appellant/Claimant was not having separate Ration card on the cutoff date of 01.01.2015 inspite of the fact that she is claiming allotment against upper floor. The documents, Annexure-D 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 because the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015.

27. The material placed on file shows 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 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey but she was not having separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. B-594 regarding which she is claiming allotment against 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 her favour to claim allotment from DDA. 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-594 regarding which she is claiming allotment against DDA. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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. 385/44/68.1/1095 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

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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: 70 of 2022

Date of Institution: 21.11.2022

Date of Order: 22.02.2023

Present: Appellant/ Claimant Rakesh S/o Hanumat

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-306, 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-306 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. 385/60/6.2/1243 dated

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07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 70 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 17.01.2023. 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-306 was found to exist on the upper floor but he had failed to submit required documents, i.e., 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.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and 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.

7. The statement of the Appellant/ Claimant, Rakesh, has been recorded before us on 17.01.2023, wherein he has stated that his parents, Hanumat & Kashi Bai, are having two sons, namely, Dharam Das & Rakesh (Appellant/Claimant) and two daughters, namely, Lalita

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& Meena. Both the sisters are married. Meena has expired whereas Lalita lives in her matrimonial home in M.P. Dharam Das is married with Urmila and having two children, namely, Krishna & Harshita. The Appellant/Claimant Rakesh is married with Leela and having two children Dhruv & Chandan.

8. The Appellant/ Claimant has stated that his parents are having a double storey Jhuggi No. A-306 in which his parents Hanumat & Kashibai lives on the ground floor and regarding that DDA has made allotment in favour of Kashi Bai. The first floor of the Jhuggi of his parents bearing Jhuggi No. A-306 comprises of two rooms. In one of the rooms on the first floor Dharam Das lives along with his wife Urmila and children and the other room is occupied by the Appellant/Claimant Rakesh. Urmila W/o Dharam Das has applied for one room on the first floor of Jhuggi No. A-306 but her claim has been rejected by EDC. Aggrieved by the same she has filed an appeal before the Appellate Authority. These facts are not disputed by DDA.

9. The Appellant/ Claimant has stated that he along with his wife Leela and two children Dhruv & Chandan Rakesh is living in the second room on the first floor of Jhuggi No. A-306 and but his claim for allotment also has been rejected by the EDC. Aggrieved by the same he has filed the present appeal before the Appellate Authority. The Appellant/ Claimant has tendered documents, Annexure- A to Annexure I, and prayed that DDA be directed to make allotment in his favour.

10. DDA has furnished the survey records along with four video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 17.01.2023 wherein he has stated that in one of the video clips of ground floor his parents Hanumat & Kashi Bai are seen and their room & kitchen is also seen clearly in the video clip. In the next two video clips Urmila is seen standing in her room on the first floor of Jhuggi No. A-306. Her room and Kitchen is clearly seen in the video clip and also a pucca staircase is seen going from the ground floor to the first floor. The staircase is from outside the house. In the fourth video of the first floor the Appellant/Claimant is seen standing in his room on the first floor of Jhuggi No. A-306. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca double storey Jhuggi No. A-306 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/ Claimant & his family lived in the said Jhuggi, which was used by for residential purposes.

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11. Accordingly, we have no hesitation in holding that the Jhuggi No.A-306 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.

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 & a separate Ration 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.

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-I, 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 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. 385/60/6.2/1243 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:

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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

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 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 valid Voter ID Card & a separate Ration 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.

21. The Appellant/Claimant has tendered his Voter ID Card (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), OBC Certificate (Annexure-D), his bank pass book of PNB (Annexure-E), Voter List of the year 2015 (Annexure-I).

22. The Voter ID Card bearing No. ARE 1139724 (Annexure-A) has been issued on 27.10.2008, much before the cutoff date of 01.01.2015. Rakesh has tendered the Voter List of the year

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2015 Annexure-I) in which his name appears on Sl. No. 520. He has not submitted any Voter Lists of the years 2012, 2013,2014 or 2019. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a valid Voter ID Card on the cut off date of 01.01.2015 but his name also appears only in the voter list of the year 2015 (prior to 01-01-2015).

23. The Appellant/Claimant has tendered his Electricity Bill (Annexure-F) which is in the name of his father Hanumat & it was energised on 31.05. 2008. The fact remains that the Appellant/Claimant was not having electricity connection on the first floor of the Jhuggi regarding which he is claiming allotment from DDA.

24. 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-306 regarding which he is claiming allotment from DDA. He has tendered two Ration Cards (Annexure- G & Annexure-H). His old Joint Ration Card (Annexure-G) has been issued in the name of his father Hanumat on 22.06.2002, in which the names of the family members, including that of the present Appellant/ Claimant, have been mentioned. The new Ration Card (Annexure-H) is issued in the name of his mother Kashi Bai and in this Ration Card the name of Appellant/claimant as well as the name of Urmila W/o Dharam Das is also mentioned. But the fact remains that the Appellant/ Claimant is not having a separate Ration card despite of the fact that he is claiming allotment 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.

25. He has tendered two Ration Cards . The old Ration Card is issued in the name of his father Hanumat and was issued on 22.06.2002 and in this Ration Card the name of Appellant/Claimant is also registered along with his parents and brother Dharam Das. The new Ration Card is registered in the name of his mother Kashi Bai and in this Ration Card the name of Appellant/claimant as well as the name of Urmila W/o Dharam Das is also registered. The Appellant/Claimant clearly stated that he is having two joint Ration Cards but he does not have any separate Ration Card or separate Electricity Connection in his name. Thus 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 the Appellant/ Claimant was not having a

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separate Ration Card on the cutoff date of 01.01.2015. Therefore, the Appellant/Claimant does not fulfil the eligibility criteria as per 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-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. 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 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. 385/60/6.2/1243 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)
Jt. Secretary (Retd.) GOI
MEMBER

22/2/2023

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

22/2/2023

(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: 643 of 2023

Date of Institution: 29.12.2022

Date of Order: 23.02.2023

Present: Appellant/ Claimant Nabi Hasan Siddiqi S/o Ali Hussain Siddiqi

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-26, 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-26 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

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of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/220/1/1693 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 643 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 13.02.2023. 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. A-26 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.

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 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.

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7. The statement of the Appellant/ Claimant, Nabi Hassan, has been recorded before us on 13.02.2023, wherein he has stated that he is married with Rahisa and having two sons, Arif & Aman Hussain. Aris is married with Sufia and having two children, Mujaif & Hamat. Aman is married with Sahiya and having no issues. Both the sons along with their family are living separately in Govind Puri. Nabi Hassan along with his wife Rahisa is living in Bhoomiheen Camp.

8. The Appellant/ Claimant has stated that he is having double storey Jhuggi No. A-26 and he along with his wife Rahisa is living in the said Jhuggi No. A-26. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure F, and prayed that DDA be directed to make allotment in his favour.

9. DDA has furnished the survey records along with two video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 13.02.2023 wherein he has stated that in the video clips he is seen in his Jhuggi. The first floor is not seen because the video of first floor was not prepared. There is nothing to disbelieve the Appellant/Claimant to the effect that his Jhuggi was a double storey Jhuggi especially when the Jhuggi is clearly seen to be a pucca structure and the Appellant/Claimant is also seen in the video on the ground floor. 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 bearing Jhuggi No. A-26, Bhoomiheen Camp and the Appellant/Claimant was living in the said Jhuggi on the cut off date of 01.01.2015 and it is used for residential purposes.

10. Accordingly, we have no hesitation in holding that the Jhuggi No. A-26 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 said Jhuggi No. A-26 for residential purposes.

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11. Now we shall 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.

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

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

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appear in at least 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 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.

16. The Appellant/Claimant has tendered his Voter ID Card CXY 1104769 (Annexure-A), which has been issued on 18.03.2002 and Aadhar Card (Annexure-B). He has categorically stated that he had casted his vote in initial few years by using his Voter ID Card CXY 1104769 (Annexure-A) but thereafter he had not casted his vote in the years 2012, 2013, 2014, 2015 & 2019 and accordingly his Voter ID Card CXY 1104769 (Annexure-A) was cancelled.

17. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that he was having a Voter ID Card CXY 1104769 (Annexure-A), which has been issued on 18.03.2002 but subsequently it was cancelled by the election authority because he had not casted his vote in the years 2012, 2013, 2014, 2015 & 2019. 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 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, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

18. The Appellant/Claimant has also tendered the Voter ID Card CXY 1104751 (Annexure-C), which has been issued on 18.03.2002 & Aadhar Card (Annexure-D) of his wife Rahisa, Application dated 20.05.2019 (Annexure-E) for issuance of ration card and Electricity Bill (Annexure-F) thereby showing that electricity connection has been by the Appellant/Claimant on 26.11.2010.

19. The Appellant/Claimant has categorically stated that his wife had also had casted her vote in initial few years by using his Voter ID Card CXY 1104751 (Annexure-C) but thereafter she

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had not casted her vote in the years 2012, 2013, 2014, 2015 & 2019 and accordingly her Voter ID Card CXY 1104751 (Annexure-C) was also cancelled. This further shows that neither the Appellant/Claimant nor his wife Rahisa was having Voter ID Cards on the cutoff date of 01.01.2015 and further their names also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Hence all these documents, Annexure- C to Annexure-F, are not material.

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 as his Voter ID Card bearing number CXY 1104769 (Annexure-A), issued on 18.03.2002 has been subsequently cancelled by the election authority because he had not casted his vote in the years 2012, 2013, 2014, 2015 & 2019 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. 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. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a valid Voter ID Card, on the cutoff 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, he 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 his claim. There is no infirmity and illegality in the impugned order bearing No. 385/220/1/1693 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

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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: 05 of 2022

Date of Institution: 17.11.2022

Date of Order: 24.02.2023

Present: Appellant/ Claimant Chandan Kumar Jha S/o Shiv Kumar

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-105, 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-105 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

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Camp, duly communicated its order bearing No. 385/36/021.G/934 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 05 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 15.02.2023. 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-105 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.

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 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.

7. The statement of the Appellant/ Claimant, Chandan Kumar Jha, has been recorded before us on 15.02.2023, wherein he has stated that his father Shiv Kumar had entered

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into first marriage with Pushpa and two children, Chandan (Appellant/ Claimant) & Anshu were born out of the wedlock. After the death of Pushpa, Shiva Kumar entered into second marriage with Mannu daughter of Gopi Kishen & Jayanti and one son, Vansh, was borne out of the wedlock. His stepmother Mannu is having one brother Tarkeshwar, who is married with Nishu and having two children, Manvi & Tanvi. His stepmother Mannu is also having four sisters, namely, Saraswati, Parvati, Soni & Nibha. All are married. Nibha is living in her matrimonial home in West Bengal whereas Saraswati, Parvati & Soni are living in their respective matrimonial homes in Bihar.

8. The Appellant/ Claimant has stated that his family is having a triple story Jhuggi No. C-105, which comprised of one room on each floors and there was an iron ladder placed out side in the gali, which was used for going to the upper floors.

9. The Appellant/ Claimant has stated that his parents, Shiv Kumar & Mannu, are living on the first floor of the said Jhuggi No. C-105 and regarding that DDA has made allotment in favour of his stepmother Mannu. These facts are not disputed by DDA.

10. The Appellant/ Claimant he stated that his step maternal uncle Tarkeshwar S/o Gopi Kishan & Jayanti, along with his wife Nishu and children, Manvi & Tanvi, is living on the second floor of the said Jhuggi No. C-105 but his claim has been rejected by DDA and aggrieved by the same he has filed the Appeal No. 06 of 2022 for redressal. In this pointed out that both the appeals No. 05 of 2022 and 06 of 2022 shall be decided separately on their respective merits.

11. The Appellant/ Claimant he stated that he along with his wife Ritu and son Samaksh is living on the ground floor of the said Jhuggi No. C-105. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal No. 05 of 2022 for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure L, and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished the survey records along with four video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 15.02.2023 wherein he has stated that in two video clips he (Chandan-

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Appellant/Claimant) is seen standing in his Jhuggi on the ground floor and an iron ladder, which has been placed for going to the upper floor, is also seen. In the third video clip his stepmother Mannu is seen in her Jhuggi on the first floor whereas in the fourth video clip Tarkeshwar is seen in his Jhuggi on the second floor. 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 triple 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 for residential purposes.

13. Accordingly, we have no hesitation in holding that the Jhuggi No. C-105 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 has been using the ground floor of said Jhuggi No. C-105 for residential purposes.

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

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.

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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."

17. 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.

18. The Appellant/Claimant has tendered his Voter ID Card ARE 2119377 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2019 (Annexure-I), Voter List of the year 2020 (Annexure-J), Voter List of the year 2021 (Annexure-K) and Voter List of the year 2023 (Annexure-L).

19. It is pointed out that the Voter ID Card bearing No. ARE 2119377 (Annexure-A) has been issued on 11.04.2018, much after the cutoff date of 01.01.2015. Accordingly, the question of his name appearing in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) does not arise at all. There is no doubt that the Appellant/Claimant has tendered Voter List of the year 2019(Annexure-I), Voter List of the year 2020 (Annexure-J), Voter List of the year 2021 (Annexure-K) and Voter List of the year 2023 (Annexure-L) but the fact remains that the name of the Appellant/Claimant does not appear in at least on 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

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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). Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

20. The Appellant/Claimant has tendered the Aadhar Card (Annexure-D) & Pan Card (Annexure-E) of his wife Ritu as well as the Electricity Bill (Annexure-F), old Ration Card (Annexure-G) issued in the name of Shiv Kumar and new Ration Card (Annexure-H) issued in the name of Mannu. It is pointed out that the Aadhar Card (Annexure-D) & Pan Card (Annexure-E) of his wife Ritu are not material to determine the eligibility of the present Appellant/Claimant. The Electricity Bill (Annexure-F) shows that the electricity connection was taken in the name of Shiv Kumar on 04.07.2008. The old Ration Card (Annexure-G) has been issued in the name of his father Shiv Kumar and new Ration Card (Annexure-H) has been issued in the name of his step mother Mannu and the names of the family members, including the name of the present Appellant/Claimant, have been recorded. The Appellant/Claimant has admitted that he is not having a separate ration card. The documents, Annexure-D 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 as 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 at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015).

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 as his Voter ID Card bearing number ARE 2119377 (Annexure-A) has been issued on 11.04.2018, much after the cutoff 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). 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. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a valid Voter ID Card, on the cutoff date of 01.01.2015 and his name also does not appear in at least on the voter list of the

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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.

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. 385/36/021.G/934 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.

(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: 06 of 2022

Date of Institution: 17.11.2022

Date of Order: 24.02.2023

Present: Appellant/ Claimant Tarkeshwar Kumar Rai S/o Gopi Kishan Rai

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-105, 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-105 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. 385/36/21.2/935 dated

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07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 06 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 15.02.2023. 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-105 was found to exist on the second 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.

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 Voter ID Card & separate Ration 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.

7. The statement of the Appellant/ Claimant, Taerkeshwar Kumar Rai, has been recorded before us on 15.02.2023, wherein he has stated that his parents, Gopi Kishan & Jayanti, are

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having one son, namely, Tarekshwar (Appellant/ Claimant) and five sisters, namely, Saraswati, Parvati, Soni, Mannu & Nibha. All the children are married. Nibha is living in her matrimonial home in West Bengal whereas Saraswati, Parvati & Soni are living in their respective matrimonial homes in Bihar. Shiv Kumar had entered into first marriage with Pushpa and two children, Chandan & Anshu were born out of the wedlock. After the death of Pushpa, Shiva Kumar entered into second marriage with Mannu daughter of Gopi Kishen & Jayanti and one son, Vansh, was borne out of the wedlock. Tarkeshwar is married with Nishu and having two children, Manvi & Tanvi.

8. The Appellant/ Claimant has stated that his sister Mannu and her husband Shiv Kumar are having a triple story Jhuggi No. C-105, which comprised of one room on each floors and there is an iron ladder placed out side in the gali, which was used for going to the upper floors. Mannu & Shiv Kumar are living on the first floor of the said Jhuggi No. C-105 and regarding that DDA has made allotment in favour of his sister Mannu. These facts are not disputed by DDA.

9. The Appellant/ Claimant has stated that Chandan along with his wife Ritu & son Samaksh is living on the ground floor of the said Jhuggi No. C-105 but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the Appeal No. 05 of 2022 before the Appellate Authority for redressal.

10. The Appellant/ Claimant has stated that because of his weak financial condition his sister has allowed him to live in her Jhuggi and accordingly he along with his wife Nishu and children, Manvi & Tanvi, is living on the second floor of the said Jhuggi No. C-105. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi No. C-105 but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal No. 06 of 2022 for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure P, and prayed that DDA be directed to make allotment in his favour.

11. It is pointed out that both the appeals No. 05 of 2022 and 06 of 2022 should be decided separately on their respective merits.

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12. DDA has furnished the survey records along with four video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 15.02.2023 wherein he has stated that in two video clips Chandan is seen standing in his Jhuggi on the ground floor and an iron ladder, which has been placed for going to the upper floor, is also seen. In the third video clip his sister Mannu is seen in her Jhuggi on the first floor whereas in the fourth video clip he (Tarkeshwar - Appellant/Claimant) is seen in his Jhuggi on the second floor. 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 triple storey structure and it was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the second floor is used by the Appellant/ Claimant for residential purposes.

13. It is pertinent to point out that the Appellant/ Claimant has stated that because of his weak financial condition his sister Mannu has allowed him to live in her Jhuggi and accordingly he along with his wife Nishu and children, Manvi & Tanvi, is living on the second floor of the said Jhuggi No. C-105. This shows that the Appellant/ Claimant is living as licensee under his sister but it seems that the Appellant/ Claimant in collusion with his sister and other family member has tried to get second allotment from DDA. Since the entire triple storey Jhuggi No.C-105 belongs to Mannu & her husband Shiv Kumar and DDA has made allotment in favour of Mannu, therefore, second allotment is not permissible against the same dwelling unit in favour of the present Appellant/ Claimant, Tarkeshwar, as he is claiming allotment as licensee under his sister Mannu.

14. Accordingly, we have no hesitation in holding that the Jhuggi No. C-105 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 has been using the second floor of said Jhuggi No. C-105 for residential purposes as licensee under his sister Mannu. But the entire triple storey Jhuggi No.C-105 belongs to Mannu & her husband Shiv Kumar and DDA has made allotment in favour of Mannu, therefore, second allotment is not permissible against the same dwelling unit in favour of the present Appellant/ Claimant, Tarkeshwar because he is claiming allotment as licensee under his sister Mannu. Therefore,

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

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 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.

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 he was not having a Voter ID Card & 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). Accordingly, there is no illegality in the impugned rejection duly communicated its order bearing No. 385/36/21.2/935 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.

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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.

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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 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: -

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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.

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 entitle 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.

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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 second floor, is entitled to seek allotment from DDA and further whether the Appellant/Claimant was having all the requisite documents, including separate Ration 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.

27. At the very outset 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

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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 at least 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. The Appellant/Claimant has tendered her Voter ID Card No. ARE 1169796 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2008 (Annexure-K), Voter List of the year 2012 (Annexure-L), Voter List of the year 2013 (Annexure-M), Voter List of the year 2014 (Annexure-N), Voter List of the year 2015 (Annexure-O) and Voter List of the year 2019 (Annexure-P).

30. It is pointed out that the Voter ID Card bearing No. ARE 1169796 (Annexure-A) has been issued on 11.04.2018. But his name appears in the Voter List of the year 2008 (Annexure-K), Voter List of the year 2012 (Annexure-L), Voter List of the year 2013 (Annexure-M), Voter List of the year 2014 (Annexure-N), Voter List of the year 2015 (Annexure-O) and Voter List of the year 2019 (Annexure-P) in which his Voter ID Card is mentioned to be bearing No. ARE 1169796. However, the Voter ID Card bearing No. ARE 1169796 issued prior to 11.04.2018 is not [laced on file and it seems that the original might have been lost and accordingly fresh Voter ID Card bearing No. ARE 1169796 (Annexure-A) has been got issued on 11.04.2018. 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, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

31. The Appellant/Claimant has admitted that he is not having a separate Ration Card on the address of second floor of the Jhuggi No. C-105 regarding which he is claiming allotment from DDA. He has tendered joint Ration Card (Annexure-D), which has been issued in the name of his sister Mannu in which the names of the family members and that of the

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present Appellant/Claimant have been recorded. The Ration Card (Annexure-D) has been issued on 23.02.2017, much after the cutoff date of 01.01.2015. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the address of second floor of the Jhuggi No. C-105 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 mandatory for the upper floor.

32. The Appellant/Claimant has tendered the Voter ID Card No. ARE 2096451 (Annexure-E) issued on 01.03.2016, Aadhar Card (Annexure-F) & Pan Card (Annexure-G) of his wife Nishu, as well as the Pass Book of Central Bank of India (Annexure-H) showing account was opened by the Appellant/Claimant on 07.04.2010, OBC certificate (Annexure-I) and Electricity Bill (Annexure-J) showing that electricity connection was taken by Shiv Kumar on 04.07.2008. The documents, Annexure-E 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 the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015.

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 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 and further the Appellant/ Claimant & his family has been using the second floor of said Jhuggi No. C-105 for residential purposes as licensee under his sister Mannu. But the entire triple storey Jhuggi No.C-105 belongs to Mannu & her husband Shiv Kumar and DDA has made allotment in favour of Mannu, therefore, second allotment is not permissible against the same dwelling unit in favour of the present Appellant/ Claimant, Tarkeshwar, as he is claiming allotment as licensee under his sister Mannu. 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. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. C-105 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

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he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 and further the Appellant/ Claimant & his family has been using the second floor of said Jhuggi No. C-105 for residential purposes as licensee under his sister Mannu. But the entire triple storey Jhuggi No.C-105 belongs to Mannu & her husband Shiv Kumar and DDA has made allotment in favour of Mannu, therefore, second allotment is not permissible against the same dwelling unit in favour of the present Appellant/ Claimant, Tarkeshwar Kumar Rai, as he is claiming allotment as licensee under his sister Mannu. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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 duly communicated its order bearing No. 385/36/21.2/935 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.

24/4/2023

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

24/4/2023

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

24/4/2023

(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: 354 of 2023

Date of Institution: 29.11.2022

Date of Order: 22.02.2023

Present: Appellant/ Claimant Vimal Kumar S/o Rama Kant

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-664, 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-664 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. 385/10/30.G/689 dated

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07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 354 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 16.01.2023. 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-664 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.

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 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.

7. The statement of the Appellant/ Claimant, Vimal Kumar, has been recorded before us on 16.01.2023, wherein he has stated that his parents, Rama Kant & Poonam Devi, are having three sons, namely, Vikesh, Vikram & Vimal (Appellant/Claimant) and two daughters,

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namely, Mini & Suman. All the Children except Suman are married. Mini is living in her matrimonial home in Gautam Nagar, Delhi. Vikesh is married with Poonam and having one daughter Anamika. He lives with his family somewhere in Delhi in a rented house. Vikram is married with Sarita and having a daughter, Twinkle. Vimal (Appellant/Claimant) is married with Soni and having one daughter Priyanshi.

8. The Appellant/ Claimant has stated that his parents, Rama Kant & Poonam Devi, are having a double storey Jhuggi No. A-665. His parents along with their unmarried daughter Suman are living on the ground floor of Jhuggi No. A-665 and regarding that DDA has made allotment in favour of his mother Poonam Devi.

9. The Appellant/ Claimant has stated that his brother Vikram along with his family is living on the first floor of the Jhuggi No. A-665 of his parents and has claimed allotment from DDA against the same. But his claim for allotment has been rejected by DDA. Aggrieved by the same he has filed an appeal before the Appellate Authority. These facts are not disputed by DDA.

10. The Appellant/ Claimant has further stated that he along with his wife Soni and daughter Priyanshi is living in a single storey Jhuggi No. B-664, which is adjacent to the Jhuggi of his parents bearing Jhuggi No. A-665. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi No. B-664 but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure G, and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished the survey records along with six video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 16.01.2023 wherein he has stated that in two of the video clips the double storey Jhuggi of his parents and Vikesh is seen and in the next four video clips he (Vimal - Appellant/Claimant) is seen standing in his single storey Jhuggi No. B-664. 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-664 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the

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Appellant/ Claimant & his family lived in the said Jhuggi, which was used by for residential purposes.

12. Accordingly, we have no hesitation in holding that the Jhuggi No. B-664 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.

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 a Voter ID Card on the cutoff date of 01.01.2015 has further whether he is living separately in a single storey Jhuggi No. B-664 which is adjacent to the Jhuggi of his parents.

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

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

> **"Part-B**
> **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

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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."

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

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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 01-01-2015) & also in the year of survey.

18. The Appellant/Claimant has tendered his Voter ID Card (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-B), Driving License (Annexure-D) and Voter List of the year 2019 (Annexure-G).

19. The Voter ID Card bearing No. ARE 2050128 (Annexure-A) has been issued on 16.05.2015, much after the cutoff date of 01.01.2015. Accordingly, the question of his name appearing in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) does not arise at all. The name of the Appellant/ Claimant appears at Sl. No. 1178 in the Voter List of the year 2019 (Annexure-G). But the fact remains that 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). 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 at least on 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.

20. The Appellant/Claimant has tendered the Voter ID Card & Aadhar Card (Annexure-E & Annexure-F) of his wife Soni. The Voter ID Card bearing No. ARE 2501196 (Annexure-E) has been issued on 29.01.2020, much after the cutoff date of 01.01.2015. This accordingly shows that neither the Appellant/Claimant nor his wife Soni were having a valid Voter ID Card on the cut off date of 01.01.2015.

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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 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. 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. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a valid Voter ID Card, on the cutoff 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). Therefore, he 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 her claim. There is no infirmity and illegality in the impugned order bearing No. 385/10/30.G/689 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: 607 of 2023

Date of Institution: 18.11.2022

Date of Order: 23.02.2023

Present: Appellant/ Claimant Bharti W/o Arvesh Kumar D/o Mahabir Prashad

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. D-124, 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. D-124 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

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No. 385/64/94.1/1450 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 607 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 09.02.2023. 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 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. D-124 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 verifies / / 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 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.

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7. The Appellant/Claimant has stated that her in-laws, Suresh & Rajshri, are having two sons Manoj & Arvesh and one daughter, Soni. All the children are married. Manoj is married with Geeta and having one son Raunak. Arvesh is married with Bharti (Appellant/Claimant) and having two children, Aranav & Khanak. Soni is living in her matrimonial home in Faridabad. The Appellant/Claimant has stated that her family is having a triple storey Jhuggi No. D-124. Suresh & Rajshri, are living on the ground floor whereas the Appellant/Claimant along with her family is living on the first floor and Manoj along with his family is living on the second floor of the said Jhuggi No D-124.

8. The Appellant/Claimant has stated that her in-laws, Suresh & Rajshri, are living on the ground floor of the said Jhuggi No D-124 and regarding that DDA has made allotment in favour of Rajshri. These facts are not disputed by DDA.

9. The Appellant/Claimant has also stated that she along with her family is living on the first floor of the said Jhuggi bearing Jhuggi No. D-124. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. D-124 but her claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-I, in support of her claim and prayed that DDA be directed to make alternative allotment in his favour as per the policy guidelines issued by DDA.

10. DDA has furnished the survey records along with five video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 09.02.2023 wherein she has stated that in the three video clip her mother-in-law, Rajshri, is seen in her Jhuggi on the ground floor and her room & kitchen are also seen whereas in the remaining two video clips she (Bharti- Appellant/Claimant) is seen in her Jhuggi on the first floor of the Jhuggi No. D-124 and her kitchen is also seen. The video clip of third floor was not made by the survey team as there was no claimant for that floor. However, the statement of the Appellant/Claimant cannot be believed wherein she has stated that her family is having triple story Jhuggi. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that triple storey Jhuggi of the family of the Appellant/Claimant bearing Jhuggi No. D-124 was in existence in the Bhoomiheen Camp on

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the cut off date of 01.01.2015 and the first floor of the said Jhuggi was used by the Appellant/ Claimant & her family for residential purposes.

11. Accordingly, we have no hesitation in holding that the Jhuggi No. D-124 in Bhoomiheen Camp is triple storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further the Appellant/ Claimant & her family have been using the first floor of the said Jhuggi No. D-124 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 & 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.

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 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 upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015 but having a joint Ration Card with her in-laws. Further, 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. 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. 385/64/94.1/1450 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 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

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:

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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."

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 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 & 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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21. The Appellant/Claimant has tendered his two Voter ID Cards bearing number ARE 2161461 (Annexure-A), Aadhar Card (Annexure-B) and Pan Card (Annexure-C).

22. The Appellant/Claimant has tendered the Voter ID Card bearing number ARE 2161461 (Annexure-A), which has been issued on 29.07.2017, much after the cut off date of 01.01.2015. Accordingly, the question of his name appearing in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015), does not arise at all. The Appellant/Claimant has also not tendered the Voter Lists on file to show that she had casted her vote 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 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, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

23. The Appellant/Claimant has admitted that she is not having a separate Ration Card on the address of first floor of the Jhuggi No. D-124 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered the old joint Ration Card (Annexure-H) issued on 05.08.2009 in the name of his father-in-law, Suresh, and the names of the family members, including that of Arvesh, who is the husband of the present Appellant/Claimant, have been recorded. The new joint Ration Card (Annexure-I) has been issued in the name of her mother-in-law, Rajshri and the names of the family members, including that of Arvesh, who is the husband of the present Appellant/Claimant, have been recorded. But the name of the present Appellant/Claimant has not been recorded and further the date of issuance is not mentioned. But the fact remains that the Appellant/Claimant is claiming allotment from DDA against the upper floor but she is 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, which make separate Ration Card mandatory for the upper floor.

24. The Appellant/ Claimant has also tendered the Voter ID Card bearing number ARE 1514446 (Annexure-D), Aadhar Card (Annexure-E) & Pan Card (Annexure-F) of her husband Arvesh and Electricity Bill (Annexure-G). The Voter ID Card bearing number ARE 1514446 (Annexure-D) has been issued on 07.06.2012. The Electricity Bill (Annexure-G) shows that

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the electricity connection has been taken on 05.06.2008 in the name of her father-in-law, Suresh, on his Jhuggi on the ground floor. Admittedly, the Appellant/Claimant was not having electricity connection on the address of her Jhuggi on the first floor bearing No. D-124 regarding which she is claiming allotment from DDA. The documents, Annexure-D 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 as she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and 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.

25. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card & Ration Card on the cut off date of 01.01.2015 and 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. 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 Appellant/ Claimant was not having the requisite mandatory document, i.e., a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and 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. Therefore, 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. 385/64/94.1/1450 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

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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: 616 of 2023

Date of Institution: 12.12.2022

Date of Order: 23.02.2023

Present: Appellant/ Claimant Raju Roy S/o Sunil 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. B-157, 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-157 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. 385/61/42.1/1283 dated

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07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 616 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 09.02.2023. 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-157 was found to exist on the first floor but he had failed to submit required documents, i.e., 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.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and 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.

7. The statement of the Appellant/ Claimant, Raju Roy, has been recorded before us on 09.02.2023, wherein he has stated that he is the only child of his parents, Sunil Roy &

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Laxmi Ropy. Sunil Roy had expired ling ago. Raju Rao is married with Sanjitha and they are having one son Krishna Nandan.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. B-157 and it comprised of one room on each floors. His mother Sanjitha along is living on the ground floor of Jhuggi No. B-157. DDA has made allotment in favour of his mother Sanjitha against the ground floor of the said Jhuggi. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that he along with his wife Sanjitha & son Krishna Nandan is living on the first floor of Jhuggi No. B-157. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure K, and prayed that DDA be directed to make allotment in her favour.

10. DDA has furnished the survey records along with five video clips. These video clips were played before the Appellant/Claimant when his statement was recorded before us on 09.02.2023 wherein he has stated that in three video clips his mother Laxmi Roy is seen standing in the Jhuggi on the ground floor and one room & kitchen is also seen. Whereas in two video Clips he (Raju Roy- Appellant/Claimant) is seen standing in his first floor Jhuggi No. B-157 regarding which he is claiming allotment from DDA. The Appellant/Claimant has stated that in the video clip his kitchen is not seen on the first floor. He has tried to explain by taking a stand that his kitchen is situated on the second floor of the said Jhuggi but the video was not prepared by the survey team of his kitchen on the second floor. The statement of the Appellant/Claimant cannot be believed to the effect that his kitchen is on the second floor because he has earlier specifically stated that the Jhuggi of his family is a double storey structure in which his parents are living on the ground floor whereas Appellant/Claimant along with his family has been living on the first floor of the Jhuggi No. B-157.Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that double storey Jhuggi of the family of the Appellant/Claimant bearing Jhuggi No. B-157 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/ Claimant & his family has been using the first floor of the said Jhuggi for residential purposes.

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11. Accordingly, we have no hesitation in holding that the Jhuggi No B-157 in Bhoomiheen Camp is a 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 has been using the first floor of the said Jhuggi No. B-157 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 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.

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-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 issued. 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. 385/41/25.1-A/1060 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:

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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

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 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 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.

21. The Appellant/Claimant has tendered his Voter ID Card bearing number CXY 1069830 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2014 (Annexure-D) and Voter List of the years 2019 (Annexure-E).

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22. The Appellant/Claimant has tendered his Voter ID Card bearing number CXY 1069830 (Annexure-A), which has been issued on 05.03.2002, much before the cutoff date of 01.01.2015. The name of the present Appellant/Claimant appears at Sl. No. 399 in the Voter List of the year 2014 (Annexure-D) and at Sl. No. 409 in the Voter List of the year 2019 (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 appear in at least 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. The Appellant/Claimant has admitted that he is not having a separate Ration Card on the address of first floor of the Jhuggi No. B-157 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered joint Ration Card (Annexure-I). The Ration Card (Annexure-I) has been issued in the name of his mother Laxmi and the names of the family members, including the name of the present Appellant/Claimant, have been recorded and further this Ration Card has been issued on 24.11.2014, just about two months before the cut off date of 01.01.2015. But the fact remains that the Appellant/Claimant is claiming allotment from DDA against the upper floor but he is not having a separate Ration Card on the cutoff date of 01.01.2015. 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.

24. The Appellant/ Claimant has also tendered his Pass Book of PNB (Annexure-G) as well as the Voter ID Card bearing number ARE 2260776 (Annexure-D), Aadhar Card (Annexure-E), Pan Card (Annexure-F) & Pass Book of Union Bank of India of his wife Sanjeeta. The Voter ID Card bearing number ARE 2260776 (Annexure-D) has been issued on 10.0.2019, much after the cutoff date of 01.01.2015. The material placed on file shows that the wife of the Appellant/ Claimant is not having a Voter ID Card on the cut off date of 01.01.2015. The documents, Annexure-D 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 as the Appellant/ Claimant is not having a separate Ration Card on the cutoff date of 01.01.2015.

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25. 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-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. 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 Jhuggi No. B-157 regarding which he is claiming allotment from DDA. Therefore, he 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. 385/61/42.1/1283 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: 127 of 2022

Date of Institution: 22.11.2022

Date of Order: 24.02.2023

Present: Appellant/ Claimant Vijay S/o Sugriv 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. D-123, 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. D-123 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

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Camp, duly communicated its order bearing No. 385/64/93.1/1448 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 127 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 13.02.2023. 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. D-123 was found to exist on the upper floor but he had failed to submit required documents, i.e., 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.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether 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.

7. The statement of the Appellant/ Claimant, Vijay, has been recorded before us on 13.02.2023, wherein he has stated that his parents, Sugriv & Vero Devi, are having four

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sons, namely, Vinay, Vijay (Appellant/ Claimant), Ajay & Manish and two daughters, namely, Sanju & Vinita. All except Ajay & Manish are married. Sanju & Vinita are living in their respective matrimonial homes in Delhi and Agra respectively. Vinay is married with Reena and having three children, Ayush, Chavi & Vanshikha. Whereas Vijay (Appellant/ Claimant) is married with Deepa and having three children, Piyush, Swati & Ansh.

8. The Appellant/ Claimant has stated that his family is having a triple storey Jhuggi No. D-123. His parents, Sugriv & Vero Devi, along with their unmarried sons Ajay & Manish are living on the ground floor of the said Jhuggi No. D-123 and regarding that DDA has made allotment in favour of Veero Devi. These facts are not disputed by DDA.

9. The Appellant/ Claimant has also stated that his brother Vinay along with his wife Reena & three children, Ayush, Chavi & Vanshikha is living on the second floor of the said Jhuggi No. D-123 but his claim has been rejected by DDA and aggrieved by the same he has filed Appeal No. 606 of 2023 before the Appellate Authority for redressal.

10. The Appellant/ Claimant has further stated that he along with his wife Deepa & three children, Piyush, Swati & Ansh is living on the first floor of the said Jhuggi No. D-123. The Appellant/ Claimant has sought allotment from DDA. But his claim has been rejected by DDA and aggrieved by the he has filed Appeal No. 127 of 2022 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 her favour.

11. It is pointed out that both the Appeal No. 127 of 2022 and the Appeal No. 606 of 2023 shall be decided separately on the respective merits.

12. DDA has furnished the survey records along with eight video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 13.02.2023 wherein he has stated that in the three video clips his mother, Veero Devi, is seen in her Jhuggi on the ground floor and her room & kitchen are seen and further pucca stair case going from the side of gali to the upper floor is also seen. Further in two video clips his brother Vinay along with his daughter Vanshika is seen in his Jhuggi on the second floor and his room & kitchen are also seen. In three video

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clips he (Vijay- Appellant/Claimant) is seen on the first floor and the room & kitchen as well as pucca staircase going to the upper floor 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. D-123 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.

13. Accordingly, we have no hesitation in holding that the Jhuggi No. D-123 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 the Appellant/Claimant has been 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 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.

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 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 issued. 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 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). Accordingly, there is no illegality in the impugned rejection order bearing No. 385/64/93.1/1448 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.

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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.

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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 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

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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.

23. The Appellant/Claimant has tendered her Voter ID Card bearing number CXY 1554699 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C) and Voter List of the year 2019 (Annexure-I).

24. The Appellant/Claimant has tendered his Voter ID Card bearing number CXY 1554699 (Annexure-A), which has been issued on 24.05.2013, much prior to the cutoff date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 285 in the Voter List of the year 2019 (Annexure-I). But the Appellant/Claimant has not furnished the Voter List of the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015) to show that he had casted his vote by using Voter ID Card bearing number CXY 1554699 (Annexure-A) in any of these years and accordingly, there is no material placed on file to show that his name appears in at least on 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 cut off date of 01.01.2015 but there is no material placed on file to show that his name appears in at least on 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.

25. The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the first floor bearing No. D-123 regarding which he has claimed allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-H) issued in the name of his mother Veero Devi on 05.12.2014 and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. 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 her Jhuggi on the first floor bearing No. D-123 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 also tendered the Voter ID Card No. ARE 1710085 (Annexure-D) issued on 24.05.2013, Aadhar Card (Annexure-E) & Pan Card (Annexure-F) of his wife Reena as well as the Electricity Bill (Annexure-G), his Pass Book of Allahabad Bank (Annexure-J) & Pass book of SBI (Annexure-K) of his wife Deepa. The Electricity Bill (Annexure-G) shows that the electricity connection has been taken by his father Sugriv on 05.06.2008 on his ground floor Jhuggi No. D-123. But the fact remains that the Appellant/Claimant was not having electricity connection on the address of his first floor Jhuggi No. D-123. The documents, Annexure-D to Annexure-G, Annexure-J & 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 as the Appellant/ Claimant is not having 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).

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 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). 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. 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 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). Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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. 385/64/93.1/1448 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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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: 606 of 2023

Date of Institution: 22.11.2022

Date of Order: 24.02.2023

Present: Appellant/ Claimant Vinay S/o Sugriv 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. D-123, 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. D-123 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. 385/64/93.1/1449 dated 07.11.2022

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to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 606 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 13.02.2023. 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. D-123 was found to exist on the upper 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.

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 Voter ID Card & separate Ration 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.

7. The statement of the Appellant/ Claimant, Vinay, has been recorded before us on 13.02.2023, wherein he has stated that his parents, Sugriv & Vero Devi, are having four

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sons, namely, Vinay (Appellant/ Claimant), Vijay, Ajay & Manish and two daughters, namely, Sanju & Vinita. All except Ajay & Manish are married. Sanju & Vinita are living in their respective matrimonial homes in Delhi and Agra respectively. Vinay is married with Reena and having three children, Ayush, Chavi & Vanshikha. Whereas Vijay is married with Deepa and having three children, Piyush, Swati & Ansh.

8. The Appellant/ Claimant has stated that his family is having a triple storey Jhuggi No. D-123. His parents, Sugriv & Vero Devi, along with their unmarried sons Ajay & Manish are living on the ground floor of the said Jhuggi No. D-123 and regarding that DDA has made allotment in favour of Veero Devi. These facts are not disputed by DDA.

9. The Appellant/ Claimant has also stated that his brother Vijay along with his wife Deepa & three children, Piyush, Swati & Ansh is living on the first floor of the said Jhuggi No. D-123 but the claim of Vijay has been rejected by DDA and aggrieved by the same he has filed Appeal No. 127 of 2022 before the Appellate Authority. These facts are not disputed by DDA.

10. The Appellant/ Claimant has further stated that he along with his wife Reena & three children, Ayush, Chavi & Vanshikha is living on the second floor of the said Jhuggi No. D-123. The Appellant/ Claimant has sought allotment from DDA. But his claim has been rejected by DDA and aggrieved by the same he has filed Appeal No. 606 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 his favour.

11. It is pointed out that both the Appeal No. 127 of 2022 and the Appeal No. 606 of 2023 shall be decided separately on the respective merits.

12. DDA has furnished the survey records along with eight video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 13.02.2023 wherein he has stated that in the three video clips his mother, Veero Devi, is seen in her Jhuggi on the ground floor and her room & kitchen are seen and further pucca stair case going from the side of gali to the upper floor is also seen. In three video clips his brother Vijay is seen on the first floor and the room & kitchen as

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well as pucca staircase going to the second floor are also seen. Further in two video clips he (Vinay- Appellant/Claimant) along with his daughter Vanshika is seen in his Jhuggi on the second floor and the 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 triple storey pucca Jhuggi No. D-123 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the second floor of the said Jhuggi for residential purposes.

13. Accordingly, we have no hesitation in holding that the Jhuggi No. D-123 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 the Appellant/Claimant has been 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 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 second floor as per the policy guidelines issued by DDA.

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. 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

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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. 385/64/93.1/1449 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.
> 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

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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

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

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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

18. 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."

19. 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.

20. 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.

21. 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 entitle for alternative allotment.

22. 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

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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.

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 (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

24. 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.

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, 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 Voter ID Card & separate Ration 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.

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26. At the very outset 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.

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 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.

28. The Appellant/Claimant has tendered her Voter ID Card No. ARE 1190578 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2014 (Annexure-H) & Voter List of the year 2019 (Annexure-I).

29. It is pointed out that the Voter ID Card bearing No. ARE 1190578 (Annexure-A) has been issued on 27.10.2008, much prior to the cutoff date of 01.01.2015. Further the name of the Appellant/Claimant appears at Sl. No. 579 the Voter List of the year 2014 (Annexure-H) and at Sl. No. 769 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 appear in at least 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. The Appellant/Claimant has admitted that he is not having a separate Ration Card issued on the address of Jhuggi on the second floor bearing No. D-123 regarding which he has claimed allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-F) issued in the name of his mother Veero Devi on 05.12.2014 and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of

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01.01.2015 on the address of his Jhuggi on the second floor bearing No. D-123 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.

31. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1657179 dated 13.11.2013 (Annexure-D) & Aadhar Card (Annexure-E) of his wife Reena as well as the Electricity Bill (Annexure-G), his Pass Book of CBI (Annexure-J) and OBC Certificate (Annexure-K). The Electricity Bill (Annexure-G) showing that the electricity connection has been taken by his father Sugriv on 05.06.2008 on his ground floor Jhuggi No. D-123. But the fact remains that the Appellant/Claimant was not having electricity connection on the address of his second floor Jhuggi No. D-123. The documents, Annexure-D, Annexure-E, Annexure-G, Annexure-J and 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 the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015.

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 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-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 Jhuggi on the second floor bearing No. D-123 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.

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. 385/64/93.1/1449 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: 136 of 2022

Date of Institution: 22.11.2022

Date of Order: 27.02.2023

Present: Appellant/ Claimant Pooja Kumari W/o Anjan Jha D/o Brahm 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 she is living in Jhuggi bearing No. A-11, 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-11 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

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Camp, duly communicated its order bearing No. 385/66/34.1.1/1475 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 136 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 14.02.2023. 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-11 was found to exist on the upper floor but she had failed to submit required documents, i.e., 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.

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 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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7. The statement of the Appellant/ Claimant has been recorded before us on 14.02.2023, wherein she has stated that her parents, Brham Dev & Meera Devi, are having two sons, Raghav & Roshan and one daughter, Pooja. All their children are married. Raghav is married with Sneh and Roshan is married with Jyoti. Pooja (Appellant/ Claimant) is married with Anjan and having two children, Navya & Rudra.

8. The Appellant/Claimant has stated that her parents, Brham Dev & Meera Devi, are having a triple story Jhuggi bearing No. A-11. Her parents, Brham Dev & Meera Devi, are living on the ground floor, the Appellant/Claimant along with her family is living on the first floor whereas her brothers Raghav & Roshan, along with their respective families, are living on the second floor of the Jhuggi bearing No. A-11. Raghav & Roshan have not sought allotment from DDA against the second floor of the Jhuggi bearing No. A-11.

9. The Appellant/Claimant has stated that her parents, Brham Dev & Meera Devi, have sought allotment from DDA against the ground floor of the Jhuggi bearing No. A-11 regarding which DDA has made allotment in favour of her mother Meera Devi. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that she along with her husband Anjan & both the children, Navya & Rudra is living on the first floor of the Jhuggi bearing No. A-11. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi but her claim has been wrongly rejected by DDA and aggrieved by the same she has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure J, and prayed that DDA be directed to make allotment in her favour.

11. DDA has furnished the survey records along with seven video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 14.02.2023 wherein she has stated that three video clips pertains to the ground floor of the Jhuggi bearing No. A-11 and in that video clip her parents, Brham Dev & Meera Devi, are seen. Whereas in the other four video clips she (Pooja- Appellant/ Claimant) along with her son is seen in her Jhuggi on the first floor of the Jhuggi

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bearing No. A-11, regarding which she has claimed allotment from DDA and further Pucca staircase going from the ground floor to the first floor from the gali is also seen. It is pointed out that in the video clips only ground floor & the first floor are seen but the second floor is not seen because none has claimed allotment against the second floor. But there is nothing to disbelieve the statement of the Appellant/Claimant to the effect that Jhuggi No. A-11 was a triple century structure. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that triple storey Jhuggi of the family of the Appellant/Claimant bearing Jhuggi No. A-11 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the first floor of the said Jhuggi have been used by the Appellant/ Claimant & her family for residential purposes.

12. Accordingly, we have no hesitation in holding that the Jhuggi No. A-11 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 & her family have been using the first floor of the said Jhuggi No. B-442 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 Voter ID Card & 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.

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-J, 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

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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. 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. 385/66/34.1.1/1475 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.
> 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

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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

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

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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

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

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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 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.

22. The Appellant/Claimant has tendered her two Voter ID Cards bearing No. ARE 1458263 (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), Pan Card Annexure-D), Birth Certificate (Annexure-E), Voter List of the year 2015 (Annexure-I) and Voter List of the year 2019 (Annexure-J).

23. It is pointed out that the Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-B) and both are bearing same number, ARE 1458263. In the first Voter ID Card (Annexure-A) issued on 07.01.2011 the name of her father Brham Dev was mentioned and the Appellant/Claimant has got the same changed by getting the name of her husband Anjan mentioned by getting the second Voter ID Card (Annexure-B) issued on 19.03.2022. Thus the Appellant/Claimant was having a Voter ID Card bearing number ARE 1458263, which has been issued on 07.01.2011, much prior to the cut off date of 01.01.2015 and the second Voter ID Card bearing number ARE 1458263 (Annexure-B) issued on 19.03.2022 after effecting chage/modification. It is pointed out that the name of the Appellant/Claimant appears at Sl. No. 194 in the Voter List of the year 2015 (Annexure-I) and at Sl. 240 in the Voter List of the year 2019 (Annexure-J) and in both the documents her Voter ID Card bearing number ARE 1458263 is mentioned and further her address is mentioned to be A-11. It shows that the Appellant/Claimant was having a Voter ID Card bearing number ARE 1458263, which has been issued on 07.01.2011, much prior to the cut off date of 01.01.2015 and further her name also 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.

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24. The Appellant/Claimant has admitted that she is not having a separate Ration Card issued on the address of the first floor of Jhuggi bearing No. A-11 regarding which she has claimed allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-J) issued in the name of her mother Meera and the names of the family members, including the name of the present Appellant/Claimant, have been mentioned. 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 her Jhuggi on the first floor bearing No. A-11 regarding which she 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 her Pass Book of SBI (Annexure-F) showing that the account was opened on 15.10.2012 and Aadhar Card (Annexure-G) of her husband Anjan. The abovementioned documents, Annexure-F & 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 Card on the cut off date of 01.01.2015, which is mandatory document for 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 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 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. 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. Therefore, she 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

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rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/66/34.1.1/1475 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)
Jt. Secretary (Retd.) GOI
MEMBER

27/2/2023

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

27/2/2023

(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: 540 of 2023

Date of Institution: 05.12.2022

Date of Order: 27.02.2023

Present: Appellant/ Claimant Narender Sarkar S/o Haricharan 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-252, 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-252 was found to be used 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. 385/37/103.G/1038 dated

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07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 540 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 17.02.2023. 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-252 was found to be exclusively used for commercial purposes and accordingly he was found not 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.

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 single storey Jhuggi bearing No. B-252 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.

7. It is the admitted case of the parties that the Appellant/Claimant, Narender Sarkar, is running a "Saree/Cloth" shop in the single storey Jhuggi No. B-252. 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

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and prayed that DDA be directed to make allotment in her favour. Therefore, it has to be first seen as to what is the legal position with regard to running of shop.

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**
> **<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."

9. The statement of the Appellant/ Claimant, Narender Sarkar, has been recorded before us on 17.02.2023, wherein he has stated that his parents, Hari Charan & Aamad Sarkar, have died long ago. The Appellant/ Claimant is married with Tullu and having three children, Yash, Supriya & Priya. All the three children are unmarried. The Appellant/ Claimant along with his family is living on rent in 17/515, DDA Flats, Kalkaji.

10. The Appellant/ Claimant has also stated that he is having a single storey Jhuggi No. B-252 in Bhoomiheen Camp, which is having roof made with Asbestos and having an area of 25 Sq. Ft. from where he is running a "Saree/Cloth" shop for the last 30-35 years. Previously he along with his family was living in the said shop long prior to the year 2015 he along with his family had shifted to rented premises 17/515, DDA Flats, Kalkaji. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi No. B-252. But his claim has been rejected by DDA and aggrieved by the same he has filed the present Appeal No. 540 of 2023 before the Appellate Authority for redressal.

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The Appellant/Claimant has tendered documents, Annexure- A to Annexure F, and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished the survey records along with five video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 17.02.2023 wherein he has stated that in the five video clips his "Saree/Cloth" shop is seen and further he is also heard of making a statement that he is living somewhere else on rent. 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. D-252 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and it has been exclusively used for commercial purposes as "Saree/Cloth" shop.

12. The condition contained in Part–B Paras No. 8 & 9 of DDA policy 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."

13. It is also pointed out that the admission of the Appellant/ Claimant is a clincher piece of evidence and it shows that the Appellant/ Claimant, Narender Sarkar, along with his wife, Tullu, and three children, Yash, Supriya & Priya, was not living in Jhuggi No. B-252, Bhoomiheen Camp on the cutoff date of 01.01.2015 but much before the cutoff date of 01.01.2015 they have been living in a rented premises bearing house No. 17/515, DDA Flats, Kalkaji. Furthermore, the Appellant/Claimant is running a "Saree/Cloth" shop from the said shop bearing Jhuggi No. B-252. The "Saree/Cloth" shop running from Jhuggi No. B-252 is also clearly seen in the video clips furnished by DDA. The Appellant/ Claimant uses the Jhuggi No. B-252 exclusively for commercial purposes as shop for running a "Saree/Cloth" shop for the last 30-35 years and on the cutoff date of 01.01.2015 it was not put to mixed use as commercial/residential or exclusively for residential purposes.

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14. 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 Jhuggi No. B-252, regarding which the Appellant/ Claimant has sought allotment from DDA, has been exclusively used as shop for commercial purposes. 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 because the Appellant/ Claimant's Jhuggi bearing No. B-252 was found to have been used exclusively for commercial purposes and accordingly the Appellant/Claimant is not entitled for alternate allotment as per the policy guidelines.

15. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. B-252 regarding which the Appellant/ Claimant has sought allotment from DDA has been exclusively used as shop for commercial purposes on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

16. 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. 385/37/103.G/1038 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal 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.

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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: 699 of 2023

Date of Institution: 31.01.2023

Date of Order: 27.02.2023

Present: Appellant/ Claimant Poonam Maheshwari W/o Sanjay Maheshwari

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. D-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 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 Jhuggi bearing No. D-150 was found to be used 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. 385/39/005.G/1044 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by

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the same, the present Appeal No. 699 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 17.02.2023. 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. D-150 was found to be exclusively used for commercial purposes and accordingly she was not fund 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 her 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.

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 single storey Jhuggi bearing No. D-150 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.

7. It is the admitted case of the parties that Sanjay Maheshwari, who is the husband of the present Appellant/ Claimant, is running a "Chicken Corner" shop in the single storey Jhuggi No. D-150. 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

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support of her claim and prayed that DDA be directed to make allotment in her favour. Therefore, it has to be first seen as to what is the legal position with regard to running of shop.

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**
>
> **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.

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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."

9. The statement of the Appellant/ Claimant, Poonam Maheshwari, has been recorded before us on 17.02.2023, wherein she has stated they are having a single storey Jhuggi No. D-150, in Bhoomiheen Camp, which was previously having an area of 25 Sq. Ft. The Jhuggi is on the main road and her husband Sanjay Maheswari used to run a grocery shop in the front portion whereas the family was living in the rear portion. But due to change in the Master Plan the said shop was partially demolished in the year 2006 and its area was reduced from 25 Sq. Ft. to 8 Sq. Ft. only and accordingly her husband had started running a "Chicken Corner" from the said shop bearing Jhuggi No. D-150. Therefore, the entire family had shifted to 1542/2, Parbatia Colony, Faridabad in the year 2006 and since then they are living there.

10. The Appellant/ Claimant has also stated that she along with her husband Sanjay Maheshwari and two children, Karan & Muskan, is continuously living in 1542/2, Parbatia Colony, Faridabad since 2006. This address is also reflected in the Aadhar Card of Sanjy

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Maheshwari (Annexure-A) thereby corroborating that the Appellant/ Claimant & her family is living in in 1542/2, Parbatia Colony, Faridabad since 2006.

11. The Appellant/ Claimant has also stated that her husband had started running a "Chicken Corner" from the said shop bearing Jhuggi No. D-150 in the year 2006. The "Chicken Corner" shop running from Jhuggi No. D-150 is also clearly seen in the photograph, Annexure-E, which was taken by the survey team. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi No. D-150 from where her husband is running a "Chicken Corner" shop. But her claim has been rejected by DDA and aggrieved by the same she has filed the present Appeal No. 699 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure E, and prayed that DDA be directed to make allotment in her favour.

12. The condition contained in Part–B Paras No. 8 & 9 of DDA policy 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."

13. It is also pointed out that the admission of the Appellant/ Claimant is a clincher piece of evidence and it shows that the Appellant/ Claimant, Poonam Maheswari, along with her Husband Sanjay Maheswari and two children, namely, Karan & Muskan, was not living in Jhuggi No. D-150, Bhoomiheen Camp on the cutoff date of 01.01.2015 but since 2006 they have been living in 1542/2, Parbatia Colony, Faridabad. Furthermore, Sanjay Maheswari, who is the husband of the present Appellant/ Claimant, is running a "Chicken Corner" from the said shop bearing Jhuggi No. D-150 since 2006. The "Chicken Corner" shop running from Jhuggi No. D-150 is also clearly seen in the photograph, Annexure-E, which was taken by the survey team. The Appellant/ Claimant has been using the Jhuggi No. D-150 exclusively for commercial purposes as shop for running a "Chicken Corner" since 2006 and from 2006 onward it has never been used for residential purposes.

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14. 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 Jhuggi No. D-150, regarding which the Appellant/ Claimant has sought allotment from DDA, has been exclusively used as shop for commercial purposes. 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 because the Appellant/ Claimant's Jhuggi bearing No. D-150 was found to be used exclusively for commercial purposes and accordingly the Appellant/Claimant is not entitled for alternate allotment as per the policy guidelines.

15. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. D-150 regarding which the Appellant/ Claimant has sought allotment from DDA has been exclusively used as shop for commercial purposes on the cutoff date of 01.01.2015. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

16. 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. 385/39/005.G/1044 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal 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.

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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: 700 of 2023

Date of Institution: 31.01.2023

Date of Order: 27.02.2023

Present: Appellant/ Claimant Banwari Lal (since deceased) S/o Mangal Ram through his legal heir Kamal (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 Banwari Lal (since deceased) S/o Mangal Ram through his legal heir Kamal (son) 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. D-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 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. D-211 was found to be used 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,

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Bhoomiheen Camp, duly communicated its order bearing No. 385/37/81.1/993 dated 07.11.2022 to the legal heir of the present Appellant/ Claimant, who has since died on 17.09.2021. Aggrieved by the same, the present Appeal No. 700 of 2023 has been filed by his legal heir Kamal (son).

3. In response to the notice, Kamal, legal heir of the present Appellant/ Claimant, Banwari Lal (since deceased) 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 Kamal has been recorded before us on 17.02.2023 and he has tendered documents Annexure- A to Annexure- I, in support of the claim of the present Appellant/ Claimant, Banwari Lal (since deceased). DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by Kamal, legal heir of the present Appellant/ Claimant, Banwari Lal (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. D-211 was found to be exclusively used 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 the legal heir of the present Appellant/ Claimant, Banwari Lal (since deceased), who has since died on 17.09.2021, 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 present appeal has been filed before us by the Appellant/ Claimant Banwari Lal (since deceased) S/o Mangal Ram through his legal heir Kamal (son) against order dated 07.11.2022 passed by the Eligibility Determination Committee.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant Banwari Lal (since deceased). We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant's double storey Jhuggi bearing No. D-211 was found to be exclusively used for commercial purposes and

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accordingly the Appellant/Claimant Banwari Lal (since deceased) is not entitled for alternate allotment as per the policy guidelines.

7. It is the admitted case of the parties that the Appellant/Claimant, Banwari Lal (since deceased), was running an "Electrical" shop in the double storey Jhuggi No. D-211. Kamal, legal heir of the Appellant/ Claimant Banwari Lal (since deceased) has stated that the claim of Banwari Lal (since deceased) has been wrongly rejected by DDA. Kamal has tendered the documents Annexure- A to Annexure- I, in support of the claim of the Appellant/ Claimant, Banwari Lal (since deceased) and prayed that DDA be directed to make allotment in the favour of Banwari Lal (since deceased). Therefore, it has to be first seen as to what is the legal position with regard to running of shop.

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**
> **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.

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."

9. The statement of the Appellant/ Claimant, Kamal, has been recorded before us on 17.02.2023, wherein he has stated that his parents, Banwari Lal & Sarbati, were having two sons, namely, Kamal & Sanjay and two daughters, namely, Kanta & Asha. Banwari Lal has expired on 17.09.2021 and Sarbati has expired on 06.09.2015 and their death certificates are Annexure-C & Annexure-I, respectively. All the four children are married. Kamal is

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married with Soma whereas Sanjay is married with Gita and having one daughter, Jahnvi. Both the daughters, namely, Kanta & Asha are living in their respective matrimonial homes in Hodal and Delhi. Kamal along with his family is living in A-822, Sangam Vihar. Sanjay along with his family is living in A-54 Navketan Camp.

10. The Appellant/ Claimant has stated that his parents, Banwari Lal & Sarbati, were also living with him in A-822, Sangam Vihar. His father Banwari Lal was having a double storey Jhuggi No. D-211 in Bhoomiheen Camp from where he was running an "Electrical" shop from the ground floor whereas the first floor was used as store for keeping electrical items. The Appellant/Claimant Banwari Lal (since deceased) has sought allotment from DDA against the said Jhuggi No. D-211. But his claim has been rejected by DDA and aggrieved by the same the present appeal has been filed by the Appellant/ Claimant Banwari Lal (since deceased) S/o Mangal Ram through his legal heir Kamal (son) and he has also tendered documents Annexure- A to Annexure- I, in support of the claim of the present Appellant/ Claimant, Banwari Lal (since deceased).

11. DDA has furnished the survey records along with two video clips. The video clips were played before Kamal, legal heir of the Appellant/Claimant Banwari Lal (since deceased) when his statement was recorded before us on 17.02.2023 wherein he has stated that in the first video clip he (Kamal) is seen standing in the "Electrical" shop thereby holding a slate in his hand on which the name of his father Banwari Lal is written and in the second video clip a bamboo ladder is seen which is used for going to the first floor and further a store is seen on the first floor where electrical items & cardboard boxes are seen lying but no household articles or utensils etc. used in kitchen are 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. D-211 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and it has been exclusively used for commercial purposes as "Electrical" shop.

12. The condition contained in Part–B Paras No. 8 & 9 of DDA policy runs as under:

"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."

13. It is also pointed out that the admission of Kamal is a clincher piece of evidence and it shows that the Appellant/ Claimant Banwari Lal (since deceased) and his family were not living in Jhuggi No. D-211, Bhoomiheen Camp, on the cutoff date of 01.01.2015 but Banwari Lal & his wife in their life time along with the family of their son Kamal were living in A-822, Sangam Vihar and more specifically on the cutoff date of 01.01.2015 they were not living in Jhuggi No. D-211, Bhoomiheen Camp but they all were living in A-822, Sangam Vihar. Furthermore, the Appellant/ Claimant Banwari Lal (since deceased) was running an "Electrical" shop from the said shop bearing Jhuggi No. D-211 up to his death on 17.09.2021 and after his death now his son Kamal is running the shop. The "Electrical" shop is being run from the ground floor of the Jhuggi No. D-211 and its floor is used as for keeping electrical items and the same is fully corroborated in the video clips furnished by DDA. The Appellant/ Claimant Banwari Lal (since deceased) and his son Kamal have been using the Jhuggi No. D-211 exclusively for commercial purposes for running an "Electrical" shop since long and on the cutoff date of 01.01.2015 it was not put to mixed use as commercial/residential or exclusively for residential purposes.

14. The material placed on file as well as the statement of Kamal S/o Banwari Lal shows that on the cutoff date of 01.01.2015 the Jhuggi No. D-211, regarding which the Appellant/ Claimant Banwari Lal (Since deceased) has sought allotment from DDA, has been exclusively used as shop for commercial purposes. The documents, Annexure-A to Annexure-I, are of no help to the Appellant/Claimant Banwari Lal (Since deceased) because these documents do not create any right, title or interest in his favour to claim allotment from DDA because the Appellant/ Claimant's Jhuggi bearing No. D-211 has been found to be used exclusively for commercial purposes and accordingly the Appellant/Claimant Banwari Lal (Since deceased) is not entitled for alternate allotment as per the policy guidelines.

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15. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. D-211 regarding which the Appellant/ Claimant Banwari Lal (Since deceased) has sought allotment from DDA has been exclusively used as electrical shop for commercial purposes on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

16. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant Banwari Lal (Since deceased) 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. 385/37/81.1/993 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal 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.

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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: 172 of 2022

Date of Institution: 23.11.2022

Date of Order: 28.02.2023

Present: Appellant/ Claimant Bikram Das S/o Bhuban 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-405, 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-405 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. 385/26/129.1/833 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by

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the same, the present Appeal No. 172 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 20.02.2023. 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-405 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.

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 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.

7. The Appellant/Claimant has stated that his parents, Bhuban & Savita, are having two sons, namely Deepak & Bikram (Appellant/Claimant) and one daughter, namely, Kanika. All the children or married. Kanika is living in her matrimonial home in

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Sangam Vihar, Delhi. Deepak is married with Seema and he is living in West Bengal. Bikram is married with Isha and having one son Bihan.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. B-405 and pucca staircase is built for going to the upper floor. His parents, Bhuban & Savita, are living on the ground floor of Jhuggi No. B-405 and regarding that DDA has made allotment in favour of Roma. These facts are not disputed by DDA.

9. The Appellant/Claimant has also stated that he along with his wife Isha and son Bihan, is living on the first floor of the said Jhuggi bearing Jhuggi No. B-405. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. B-405 but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-H, in support of his claim and prayed that DDA be directed to make alternative allotment in his favour as per the policy guidelines issued by DDA.

10. DDA has furnished the survey records along with six video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 20.02.2023 wherein he has stated that in the three video clip his mother Savita is seen in her Jhuggi on the ground floor and her room/kitchen is also seen and further a pucca staircase is also seen whereas in the other three video clips he (Bikram-Appellant/Claimant) is seen in his Jhuggi on the first floor of Jhuggi No. B-405. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca double storey Jhuggi of the family of the Appellant/Claimant bearing Jhuggi No. B-405 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/ Claimant & his family used the first floor of the said Jhuggi for residential purposes.

11. Accordingly, we have no hesitation in holding that the Jhuggi No. B-405 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 have been using the first floor of the said Jhuggi No. B-405for 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 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.

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-H, in support of his 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 upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015 but having a joint Ration Card with his parents. 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. 385/26/129.1/833 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.

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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

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

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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 at least 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 & 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.

21. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1451319 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Driving License (Annexure-D), Electricity Bill (Annexure-F), Voter List for the year 2014 (Annexure-G) and Voter List for the year 2019 (Annexure-H).

22. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1451319 (Annexure-A), which has been issued on 01.01.2010. His name appears at Sl. No. 1264 in the Voter List for the year 2014 (Annexure-G) and at Sl. No. 1293 in the Voter List for 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 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23. The Appellant/Claimant has admitted that he is not having a separate Ration Card on the address of first floor of the Jhuggi No. B-405 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the old joint Ration Card (Annexure-E) issued on 20.07.2008 in the name of his father Bhuban and the names of the family members, including that of the present Appellant/Claimant, have been

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recorded. But the fact remains that the Appellant/Claimant is not having a separate Ration Card on the address of first floor of the Jhuggi No. B-405 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 mandatory for the upper floor. 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. 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 mandatory for the upper floor.

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. 385/26/129.1/833 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: 406 of 2023

Date of Institution: 29.11.2022

Date of Order: 28.02.2023

Present: Appellant/ Claimant Nileema Dutta W/o Subhankar D/o Nitai Dutta

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-343, 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-343 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. 385/60/12.1/1245 dated

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07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 406 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 19.01.2023. 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. A-343 was found to exist on the first 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 / / No Separate Ration Card for Upper Floor"** 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 & separate Ration 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.

7. The statement of the Appellant/ Claimant, Nileema Dutta, has been recorded before us on 19.01.2023, wherein she has stated that her parents, Nitai Dutta & Varun, are having two

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children, namely, Shubham and Nileema (Appellant/Claimant). Shubham is unmarried whereas Nileema is married with Shubhankar and having one daughter Divyanka.

8. The Appellant/ Claimant has stated that her parents are having a double storey Jhuggi No. A-343. The first floor is not having access from the gali but the staircase from inside the room on the ground floor goes to the first floor.

9. The Appellant/ Claimant has stated that her parents Nitai & Varun are living on the ground floor along with their unmarried son Shubham on the ground floor of the said Jhuggi No. A-343 and regarding that DDA has made allotment in favour of her mother, Varun. These facts are not disputed by DDA.

10. The Appellant/ Claimant has further stated that she along with her husband Shubhankar and son Divyanka is living on the first floor of the said Jhuggi No. A-343. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-343. But her claim has been wrongly rejected by DDA and aggrieved by the same she has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure F, and prayed that DDA be directed to make allotment in her favour.

11. DDA has furnished the survey records along with three video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 19.01.2023 wherein she has stated that in one of the video clips her mother Varun is seen on the ground floor of Jhuggi No. A-343 and a staircase is seen going from the ground floor to the first floor. Nileema (Appellant/Claiamant) is seen in the other two video clips of the first floor of Jhuggi No. A-343 and a staircase is also seen going towards the terrace.

12. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca double storey Jhuggi No. A-343 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/ Claimant & her family lived on the first floor of the said Jhuggi, which was used for residential purposes. It is pertinent to point out that a staircase was used for going from inside the room of ground floor to the first floor. It clearly proves that Jhuggi No. A-343 was a single dwelling unit and since one allotment has already been made against the said Jhuggi No. A-343 in favour of her mother, Varun, therefore, the Appellant/Claimant is not eligible to claim second allotment against

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the same dwelling unit as two allotments are not permissible against the one dwelling unit as per the policy guidelines issued by DDA.

13. Accordingly, we have no hesitation in holding that the Jhuggi No. A-343 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, which was very much part & parcel of the same dwelling unit of Nitai & Varun (parents of Appellant/Claimant) and accordingly the Appellant/Claimant is not entitled to claim second allotment against the same dwelling unit.

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 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.

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 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). Accordingly, there is no illegality in the impugned rejection order bearing No. 385/60/12.1/1245 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>**
>
> - 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

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. 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 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.

23. The Appellant/Claimant has tendered her Voter ID Card (Annexure-A) & Aadhar Card (Annexure-B) and Aadhar Card & Pan Card (Annexure-C & Annexure-D) of her husband

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Shubhankar, Voter List of the year 2019 (Annexure-F) and the Pass Book of SBI (Annexure-E).

24. The Pass Book of SBI (Annexure-E) shows that the account was opened on 07.07.2015, much after the cutoff date of 01.01.2015. Further, the Voter ID Card bearing No. ARE 2065993 (Annexure-A) has been issued on 25.08.2015, much after the cutoff date of 01.01.2015. Accordingly, the question of her name appearing in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) does not arise at all. The name of the Appellant/ Claimant appears at Sl. No.149 in the Voter List of the year 2019 (Annexure-F). But the fact remains that her name does not appears in at least on 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 at least on 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 admitted that she is not having a separate Ration Card on the address of first floor of the Jhuggi No. A-343 regarding which she is claiming allotment from DDA. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA because she is claiming allotment against upper floor.

26. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card & Ration Card on the cut off date of 01.01.2015 and 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. 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. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and 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). Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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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. 385/60/12.1/1245 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.

(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: 683 of 2023

Date of Institution: 24.01.2023

Date of Order: 28.02.2023

Present: Appellant/ Claimant Rihana W/o Ramzan D/o Babu Khan

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-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 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-22 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. 385/66/39.1.1/1478 dated 07.11.2022 to

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the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 683 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 16.02.2023. 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-22 was found to exist 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"** 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 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.

7. The Appellant/Claimant has stated that her parents, Babu Khan & Zubeda are having two sons, namely, Aas Mohammad & Mohd Umar and two sisters, namely, Rihana (Appellant/Claimant) and Ruby. All the children except Mohd Umar are married. Aas Mohd

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is married with Nazrana and having three children, Falak, Sulyan and Myra. Ruby is married with Hasin and living in her matrimonial home in Tughlakabad. Rihana is married with Ramzan and having one son Azaan. Babu Khan had died in the year 2019.

8. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. B-22, which comprised of one room on the ground floor and one room on the first floor. The room on the ground floor was divided into two parts. Her mother Zubeda along with her unmarried son Mohd Umar is living in one of the portion on the ground floor and regarding that DDA has made allotment in favour of Zubeda. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that her brother Aas Mohd along with his wife Nazrana and the three children are living in the second portion on the ground floor but his claim has been rejected by DDA and aggrieved by the same he has filed an appeal before the Appellate Authority. These facts are not disputed by DDA.

10. The Appellant/Claimant has also stated that she along with her husband Ramzan & son Azaan is living on the first floor of the said Jhuggi bearing Jhuggi No.B-22. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. B-22 but her claim has been wrongly rejected by DDA and aggrieved by the same she has filed the present Appeal for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-G, in support of her claim and prayed that DDA be directed to make alternative allotment in his favour as per the policy guidelines issued by DDA.

11. DDA has furnished the survey records along with seven video clips. All the seven video clips were played before the Appellant/Claimant when her statement was recorded before us on 16.02.2023 wherein she has stated that in the five video clips her mother Zubeda, fahther Babu Khan and brother Aas Mohd. are seen in her Jhuggi on the ground floor whereas in the remaining two video clips she (Rihana- Appellant/Claimant) is seen in her Jhuggi on the first floor of the Jhuggi No.B-22 and further her room & kitchen as well as a pucca staircase is seen going from the ground floor to the first floor. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca double storey Jhuggi of the family of the Appellant/Claimant bearing Jhuggi No. B-22

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was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/ Claimant & her family used the first floor of the said Jhuggi for residential purposes.

12. Accordingly, we have no hesitation in holding that the Jhuggi No. B-22 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 have been using the first floor of the said Jhuggi No. B-22 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 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.

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-G, 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. Further, the Appellant/ Claimant is not having a Voter ID Card & 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. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/66/39.1.1/1478 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

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- 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:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which 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

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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 appear in at least 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 was having all the requisite documents, including a 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.

22. The Appellant/Claimant has tendered her Voter ID Card bearing number ARE 2074184 (Annexure-A), Aadhar Card (Annexure-B) and Pan Card (Annexure-C).

23. The Appellant/Claimant has tendered the Voter ID Card bearing number ARE 2074184 (Annexure-A), which has been issued on 30.10.2015, much after the cut off date of 01.01.2015. Therefore, the question of her name 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 not tendered the Voter list of the year 2019 to show that she had casted her vote by using Voter ID Card bearing number ARE 2074184 (Annexure-A). Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the

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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, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

24. The Appellant/Claimant has admitted that she is not having a separate Ration Card on the address of first floor of the Jhuggi No. B-22 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered joint Ration Card (Annexure-G), which has been issued in the name of her mother Jubeda, and the names of the family members including that of the present Appellant/Claimant, have been recorded. But the fact remains that the Appellant/Claimant is not having a separate Ration Card on the address of first floor of the Jhuggi No. B-22 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 mandatory for the upper floor.

25. The Appellant/ Claimant has also tendered the Voter ID Card bearing number ARE 1150907 (Annexure-D), Aadhar Card (Annexure-E) & Pan Card (Annexure- F) of her husband Ramzan. The Voter ID Card bearing number ARE 1150907 (Annexure-D) has been issued on 09.06.2017, much after the cut off date of 01.01.2015. This shows that neither the Appellant/ Claimant nor her husband Ramzan was having a Voter ID Cards on the cut off date of 01.01.2015. The documents, Annexure-D 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 as the Appellant/ Claimant was not having a Voter ID Card & separate Ration 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.

26. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card & Ration Card on the cut off 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. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a valid Voter ID Card & a separate Ration Card, on the cutoff

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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, 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. 385/66/39.1.1/1478 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: 395 of 2023

Date of Institution: 29.11.2022

Date of Order: 28.02.2023

Present: Appellant/ Claimant Munish Biswas S/o Sushen 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. B-402, 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-402 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. 385/59/12.1/ 1163 dated

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07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 395 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 19.01.2023. 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-402 was found to exist on the first floor but he had failed to submit required documents, i.e., 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"** 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 & separate Ration 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.

7. The statement of the Appellant/ Claimant, Munish Biswas, has been recorded before us on 19.01.2023, wherein he has stated that his parents, Sushen Biswas & Lipika, are having two

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children, namely, Munish (Appellant/Claimant) & Gayatri. Munish is married with Priyanka and Gayatri is married with Sanjeev and having two children, namely, Demira & Krishabh.

8. The Appellant/ Claimant has stated that his family is having a double storey Jhuggi No. B-402 and it comprised of one room & joint kitchen on the ground floor and one room on the first floor. The Appellant/ Claimant has specifically stated that the room on the first floor was not having independent access from the gali but the bamboo ladder has been placed inside the room on the ground floor and it has been used for going to the first floor. When not in use the said bamboo ladder was removed and kept aside. Furthermore the Appellant/ Claimant has also admitted that he was sharing kitchen with her parents as they were having a joint kitchen on the ground floor.

9. The Appellant/ Claimant has stated that his parents are having a double storey Jhuggi No. B-402 in which his parents, Sushen Biswas & Lipika, are living on the ground floor of the said Jhuggi No. B-402 and regarding that DDA has made allotment in favour of his mother Lipika. These facts are not disputed by DDA.

10. The Appellant/ Claimant has further stated that he along with his wife Priyanka is living on the first floor of the said Jhuggi No. B-402. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. B-402. But his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure L, and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished the survey records along with three video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 19.01.2023 wherein he has stated that in two video clips his father Sushen Biswas is seen on the ground floor of Jhuggi No. B-402. The third video clip pertains to the first floor in which again the father of the Appellant/Claimant, Sushen is seen in the room on the first floor as Munish had gone out and his father Sushi was conducted the survey of his first floor. The Appellant/Claimant further stated that one bamboo ladder has been placed

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inside the room on the ground floor to go to the first floor but no such ladder was visible in the video clip of ground floor because they used to remove it when not in use. Munish further stated that he did not have a separate kitchen on the first floor but he shared the joint kitchen with his parents on the ground floor.

12. It is pertinent to point out that the Appellant/ Claimant has specifically stated that her family is having a double storey Jhuggi No. B-402 and the rooms on the first floor was not having independent access from the gali but the bamboo ladder placed inside the room on the ground floor was used for going to the first floor. Thus the admission of the Appellant/Claimant is a clincher piece of evidence and it is also corroborated by the video clip furnished by DDA thereby showing that the upper floor was not having independent access from the gali but the bamboo ladder placed inside the room on ground floor has been used for going to the upper floor thereby making both the three floors to be part & parcel of one dwelling unit.

13. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca double storey Jhuggi No. B-402 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/ Claimant & his family lived on the first floor of the said Jhuggi, which was used by for residential purposes. Since a bamboo ladder was used for going from inside the room of ground floor for going to the first floor and it clearly proves that Jhuggi No. B-402 was a single dwelling unit regarding which DDA has already made allotment in favour of his mother Lipika. Two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA. But the Appellant/Claimant in collusion with his family members has tried to get maximum allotments from DDA by hook or crook. 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 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 at least 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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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 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.385/59/12.1/1163 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

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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."

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

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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 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

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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 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.

23. The Appellant/Claimant has tendered her Voter ID Card (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Passport (Annexure-D), Driving License (Annexure-E), the Voter List of the year 2013 (Annexure-F) and the Voter List of the year 2019 (Annexure-M).

24. The Voter ID Card (Annexure-A) bearing No. ARE 1464659 has been issued on 06.03.2018, much after the cutoff date of 01.01.2015. But he has submitted the Voter List of the year 2013 (Annexure-F) in which his name appears on Sl. No. 307 and the Voter List of the year 2019 (Annexure-M) in which his name appears on Sl. No. 457. Both the Voter Lists bear the same Voter ID Card number i.e, ARE 1464659. 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 does not appear in at least one the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

25. The Appellant/Claimant has admitted that he is not having a separate Ration Card on the address of first floor of the Jhuggi No. B-402 regarding which he is claiming allotment from DDA. He has tendered a joint Ration Card (Annexure-I) issued in the name of his mother Lipika in which the name of Appellant/Claimant is also recorded along with other members of the family. But the fact remains that the Appellant/Claimant was not having a separate ration card issued on the address of first floor of Jhuggi No. B-402 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 mandatory for the upper floor.

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26. The Appellant/Claimant has tendered his Pass Book of SBI (Annexure-G), Electricity Bill (Annexure-H) as well as the Voter ID Card No. ARE 2040897 (Annexure-J), Aadhar Card (Annexure-K) and Pan card (Annexure-L) of his wife Lipika.

27. The Pass Book of SBI (Annexure-G) shows that the account was opened on 17.12.2016, much after the cutoff date of 01.01.2015. The Electricity Bill (Annexure-H) shows that the electricity was energized on 26.05.2008 in the name of Sushen (father of the Appellant/Claimant) and accordingly the Appellant/Claimant was not having electricity connection issued on the address of first floor of Jhuggi No. B-402 regarding which he is claiming allotment from DDA. Further the Voter ID Card No. ARE 2040897 (Annexure-J) has been issued on 07.04.2015, much after the cutoff date of 01.01.2015. The documents, Annexure-G, Annexure-H and Annexure-J 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 the Appellant/ Claimant 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.

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-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 the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Furthermore, the ground & first floors of the Jhuggi No. B-402 are not found to be separate & independent dwelling units but are found to be part & parcel of the same dwelling unit regarding which DDA has already made allotment in favour of his mother, Lipika and accordingly two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant cannot claim allotment against the first floor of Jhuggi No. B-402 because of the reasons that two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA and further he 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. Therefore, the Appellant/ Claimant 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 her claim. There is no infirmity and illegality in the impugned order bearing No. 385/59/12.1/1163 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**