JAILORWALA BAGH COLONY, ALLOWED/REJECTED CASE LIST OF 01.07.2024 TO 31-07-2024

JULY 2024

S.No	Appl. No.		Appl. Date	Applicant Name	Father's Name	Jhuggi No	Decision	Order Date
1.	11	2024	02-05-2023	Savitri Devi	Sanjay Kumar	H-119/A	Rejected	01-07-2024
2.	67	2024	12-07-2023	Jamna Prasad	Ram Khelawan	A-81	Rejected	01-07-2024
3.	68	2024	12-07-2023	Ramsurat	Ram Saran	H-65	Rejected	02-07-2024
4.	96	2024	13-07-2023	Sujwanti Devi	Surender Singh	A-93	Rejected	02-07-2024
5.	223	2024	24-07-2023	Manoj Kumar	Lal Chand	F-148/2	Rejected	03-07-2024
6.	52	2024	12-07-2023	Monika	Bhullan	N-207/1472	Rejected	03-07-2024
7.	240	2024	27-07-2023	Ram Parkash	Ram Sajeevan	A-16	Rejected	08-07-2024
8.	45	2024	11-07-2023	Pratibha Kumari	Amar Nath Mandal	D-85	Rejected	08-07-2024
9.	144	2024	17-07-2023	Mamta	Sunny	D-77	Rejected	09-07-2024
10.	237	2024	27-07-2023	Sommari Devi	Sheetla Prasad	I-41	Rejected	09-07-2024
11.	149	2024	17-07-2023	Dharam Raj	Kharpatlu	A-91/1	Rejected	10-07-2024
12.	163	2024	17-07-2023	Tara Devi	Rajesh	H-42	Rejected	10-07-2024
13.	168	2024	17-07-2023	Jogender	Bhola Paswan	A-28	Rejected	11-07-2024
14.	138/2024 and 165/2024	2024	17-07-2023	Mahender Saroj	Bhola Saroj	A-57	**Allowed**	11-07-2024

15.	50	2024	12-07-2023	Dabalu Saroj	Dhola Saroj	E-91	Rejected	12-07-2024
16.	63	2024	12-07-2023	Dharmendra Kr.	Barkhu	CN-169	Rejected	12-07-2024
17.	10	2024	02-05-2023	Ramota Devi	Faujdar	(CN/357) Blk-F	Rejected	15-07-2024
18.	220	2024	24-07-2023	Satish	Sant Raj	F-45	Rejected	16-07-2024
19.	40	2024	10-07-2023	Gorakh	Nanak	E-155	Rejected	18-07-2024
20.	231	2024	25-07-2023	Sant Raj	Ram Bilas Yadav	F-82	Rejected	18-07-2024
21.	248	2024	31-07-2023	Param Devi	Raja Ram	C-117	**Allowed**	18-07-2024
22.	235	2024	27-07-2023	Dalip	Ram Chander Sav	G-09	Rejected	19-07-2024
23.	146	2024	17-07-2023	Gauri Shankar	Vijay Shankar	A-132	Rejected	22-07-2024
24.	221	2024	24-07-2023	Kamlesh Devi	Raj Kumar	N-207/447	**Allowed**	22-07-2024
25.	72	2024	12-07-2023	Rajiv Kumar	Gaya Prasad	A-92	Rejected	23-07-2024
26.	61	2024	12-07-2023	Sheetal Arora	Vivek Arora	H-208	Rejected	24-07-2024
27.	03	2024	28-04-2023	Brijesh Kumar	Brij Nath	F-160	Rejected	25-07-2024
28.	239	2024	27-07-2023	Sushila	Parsadi	C-16	**Allowed**	25-07-2024
29.	186	2024	18-07-2023	Papu Ram	Gattu Saroj	G-33	Rejected	29-07-2024
30.	114	2024	13-07-2023	Jadota	Pappu	I-10(N-207/23)	Rejected	30-07-2024

31.	122	2024	13-07-2023	Pawan Kumar	Ram Kawal	G-84	**Allowed**	30-07-2024
32.	62	2024	12-07-2023	Monika	Avdesh Gautam	D-16	Rejected	31-07-2024
33.	244	2024	28-07-2023	Munni Devi	Shankar Lal	I-5	Rejected	31-07-2024
34.	243	2024	28-07-2023	Chhabi Nath	Shankar Lal	I-5	Rejected	31-07-2024
35.	241	2024	28-07-2023	Kishan	Shankar Lal	I-5	Rejected	31-07-2024

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

Appeal No: 11 of 2024

Date of Institution: 02.05.2023

Date of Order: 01.07.2024

Present: Appellant/ Claimant Savitri Devi W/o Sanjay Kumar

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. H-119/A Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. H-119/A was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-32/0076.G

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dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 11 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 31.05.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-G, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. H-119/A was found to exist but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not *Verified / Upper Floor*"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. H-119/A as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Savitri Devi has been recorded before us on 31.05.2024 wherein she has stated that she is married with Sanjay and having two sons, Kishan & Honey and one daughter, Gunja. Both the sons are unmarried. Gunja is married with Sonu and she is living in her matrimonial home in Ludhiana, Punjab.

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9. The Appellant/Claimant has stated that she along with her husband Sanjay Kumar and both the unmarried sons, Kishan & Honey, is living in a single storey Jhuggi No. H-119/A. The Appellant/Claimant has sought allotment from DDA against the said single storey Jhuggi No. H-119/A but her claim has been rejected by the Eligibility Determination Committee on the ground that she has been found to have claimed allotment against the upper floor and further her Voter ID Card could not be verified in spite of the fact that she has claimed allotment against the single storey Jhuggi No. H-119/A and further, she is having all the requisite documents as per the policy guidelines issued by DDA and accordingly, aggrieved by the same she has filed the present Appeal No. 11 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered document, Annexure-A to Annexure-G in support of her claim and prayed that DDA be directed to make allotment in her favour.

10. DDA has furnished survey records along with one video clip of Jhuggi No. H-119/A. As per survey records the survey was got conducted by Sanjay Kumar, who is the husband of the Appellant/Claimant of Jhuggi No. H-119/A on 19.03.2020 on the ground floor of the said Jhuggi and his photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant, was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

11. DDA has furnished the survey records along with one video clip of Jhuggi No. H-119/A. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 31.05.2024 wherein the Appellant/Claimant has stated that the video clip pertains to the Jhuggi No. H-119/A in which from outside the Jhuggi is clearly seen to be a single storey structure having roof made with asbestos sheet and further, the Appellant/Claimant is seen and getting the survey conducted and her room & kitchen are seen and further, she is also seen holding a slate in her hand on which **"H-119A SAVITRI DEVI GF"** is seen to have been written.

12. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the single storey Jhuggi No. H-119/A. Thus the statement of the Appellant/Claimant as well as the survey records has duly proved that the single storey

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Jhuggi No. H-119/A was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the same for residential purposes.

13. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. H-119/A was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi.

14. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the single storey Jhuggi No. H-119/A as per the policy guidelines issued by DDA.

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

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

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

17. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before

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01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

18. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

19. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

21. Thus Clause 1 (10) of Part–B of the DDA policy makes the requirement of having a separate

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

22. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

23. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

24. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659

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appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

26. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

27. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for

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obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

28. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

29. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of

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evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

30. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

31. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

34. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

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

36. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

37. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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

39. It is pointed out that we have already held that the single storey Jhuggi No. H-119/A was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

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40. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the single storey Jhuggi No. H-119/A as per the policy guidelines issued by DDA.

41. The Appellant/Claimant has tendered her Voter ID Card No. WHC 3641156 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of her claim.

42. It is pointed out that the Voter ID Card No. WHC 3641156 (Annexure-A) of the Appellant/Claimant has been issued on 14.12.2022, much after the cutoff date 01.01.2015 and accordingly the question of her name appearing in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No.H-119/A Jailorwala Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

43. The Appellant/Claimant has tendered Ration Card (Annexure-D), Voter ID Card No. JPF 0785816 (Annexure-E) of her husband Sanjay, the Electricity Bill (Annexure-F) and the Passbook of Indusind Bank (Annexure-G) in support of her claim.

44. It is pointed out that Ration Card No. 077004860311 (Annexure-D) has been issued in favour of the Appellant/Claimant and the name of her son Kishan is mentioned but the date of issuance is not mentioned. Furthermore, Voter ID Card No. JPF 0785816 (Annexure-E) of her husband Sanjay has been issued on 29.07.2003 but it has been issued on the address of the Jhuggi No. H-100 whereas the Appellant/Claimant has been claiming allotment from DDA against the Jhuggi No. H-119/A and accordingly, this document having issued on the address of some other Jhuggi is not relevant to determine the eligibility of the Appellant/Claimant. This shows that neither the Appellant/Claimant nor her husband Sanjay Kumar were having a valid Voter ID Card on the cutoff date 01.01.2015 issued on the address of Jhuggi No. A-119/A regarding which the Appellant/Claimant has been claiming allotment from DDA. The Electricity Bill (Annexure-F) shows that the Appellant/Claimant had taken the electricity

connection on 17.12.2014. The Passbook of Indusind Bank (Annexure-G) shows that the Appellant/Claimant had opened the account on 26.12.2014. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. A-119/A regarding which the Appellant/Claimant is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

46. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No.H-119/A Jailorwala Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent

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intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-G, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

47. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-32/0076.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

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

Appeal No: 67 of 2024

Date of Institution: 12.07.2023

Date of Order: 01.07.2024

Present: Appellant/ Claimant Jamna Prasad S/o Ram Khelawan

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-81, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-81 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has

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rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-76/39.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 67 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 31.05.2024 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. Radhey Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-81 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. A-81 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Jamna Prasad has been recorded before us on 31.05.2024 wherein he has stated that he is married with Meera Devi and having two sons, Jitender & Govind and one daughter, Moni. All the children are married. Moni is living in her

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matrimonial home in Ludhiana, Punjab. Whereas Jitender and Govind along with their respective families are living in their native village in Pratpgarh, Uttar Pradesh.

9. The Appellant/Claimant has stated that he along with his wife Meera Devi is living in a single storey Jhuggi No. A-81, Jailorwala Bagh, Ashok Vihar and it comprises of only one room. The Appellant/Claimant has stated that he has sought allotment from DDA against the said single storey Jhuggi No. A-81 but his claim has been rejected by the Eligibility Determination Committee on the ground that he was found to be claiming allotment from DDA against the upper floor of the said Jhuggi No. A-81 and further his Voter ID Card could not be verified in spite of the fact that he is claiming allotment against the single storey Jhuggi No. A-81 and further, he is having all the requisite documents as per the policy guidelines issued by DDA and accordingly, aggrieved by the same he has filed the present Appeal No. 67 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-I, in support of his claim and prayed that DDA be directed to make allotment in his favour.

10. DDA has furnished survey records along with one video clips of Jhuggi No. A-81. As per survey records the survey was got conducted by Meera Devi, who is the wife of the Appellant/Claimant, of Jhuggi No. A-81 on 22.11.2020 on the ground floor of the said Jhuggi and her photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant along with his wife Meera Devi was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

11. DDA has furnished the survey records along with one video clips of Jhuggi No. A-81. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 31.05.2024 wherein the Appellant/Claimant has stated the video clip pertains to the ground floor of Jhuggi No. A-81 in which the Appellant/Claimant along with Meera Devi is seen and getting the survey conducted and further, Jhuggi No. A-81 is clearly seen to be a single storey pucca structure and further, his room & kitchen are seen and further, the Appellant/Clamant is also seen holding a slate in his hand on which **"A-81 JAMNA PRASAD GF"** is clearly seen to have been written.

12. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case about the existence of the single storey Jhuggi No. A-81. Thus the

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statement of the Appellant/Claimant has duly proved that the single storey Jhuggi No. A-81 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is living in the said single storey Jhuggi No. A-81 and using the same for residential purposes.

13. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. A-81 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant was & is still using the said single storey Jhuggi No. A-81 for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi.

14. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the single storey Jhuggi No. A-81 as per the policy guidelines issued by DDA.

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

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

> **"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.

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

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

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

17. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

18. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

19. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

22. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

23. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or

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against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

24. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

26. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not

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amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

27. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

28. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

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29. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

30. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

31. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18

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years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

34. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also

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in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

36. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

37. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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

39. It is pointed out that we have already held that the single storey Jhuggi No. A-81 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes

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and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

40. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the single storey Jhuggi No. A-81 as per the policy guidelines issued by DDA.

41. The Appellant/Claimant has tendered his three Voter ID Cards (Annexure-A to Annexure-C), Aadhar Card (Annexure-D), PAN Card (Annexure-E) and Letter F. No./AERO/AC-17/2024/179 dated 01.05.2024 (Annexure-I) of AERO/AC-17, Wazirpur in support of his claim.

42. It is pointed out that the Appellant/Claimant has tendered his three Voter ID Cards (Annexure-A to Annexure-C). The first Voter ID Card (Annexure-A) is bearing number JPF 0729665 and it has been issued on the address of the Jhuggi No. A-19 Jailorwala Bagh, Ashok Vihar on 12.08.2002 whereas the Appellant/Claimant has been claiming allotment from DDA against the Jhuggi No. A-81 and accordingly, this Voter ID Card No. JPF 0729665 (Annexure-A) is not relevant to determine the eligibility of the Appellant/Claimant as it has been issued on the address of some other Jhuggi No. A-19.

43. The second Voter ID Card (Annexure-B) of the Appellant/Claimant is bearing number WHC 1266587, which has been issued on the address of the Jhuggi No. A-81 regarding which the Appellant/Claimant has been claiming allotment from DDA but it has been issued on 01.01.2011. Moreover, Letter F. No./AERO/AC-17/2024/179 dated 01.05.2024 (Annexure-I) of AERO/AC-17, Wazirpur shows that the Voter ID Card No. WHC 1266587 (Annexure-B) of the Appellant/Claimant could not be verified as per the records of the Election Commission and further, his name also does not appear in the Voter List of the years from 2012 to 2015. This shows that Voter ID Card No. WHC 1266587 (Annexure-B) is not a valid document and accordingly, this explains as to why his name does not appear in the Voter List of the years from 2012 to 2015. This further, shows that the Appellant/Claimant had forged & fabricated Voter ID Card No. WHC 1266587 (Annexure-B) in order to grab allotment from DDA by hook or crook

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44. It is pointed out that the Appellant/Claimant has tendered his third Voter ID Card (Annexure-C), which is bearing number WHC 3660586 and this Voter ID Card No. WHC 3660586 (Annexure-C) has been issued on the address of the Jhuggi No. A-81 regarding which the Appellant/Claimant has been claiming allotment from DDA but it has been issued on 02.06.2023, much after the cutoff date 01.01.2015 and accordingly the question of her name appearing in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. However, as per our discussion above the material placed on file shows that the first Voter ID Card No. JPF 0729665 (Annexure-A) is not relevant to determine the eligibility of the Appellant/Claimant as it has been issued on the address of some other Jhuggi No. A-19 further the Appellant/Claimant had forged and fabricated the second Voter ID Card No. WHC 1266587 (Annexure-B) in order to grab allotment from DDA and further, he was not having a valid Voter ID Card on the cutoff date 01.01.2015 issued on the address of the Jhuggi No. A-81 regarding which the Appellant/Claimant is claiming allotment from DDA and further, his name also does not appear in the Voter List of the years from 2012 to 2015 because his third Voter ID Card (Annexure-C), has been issued on 02.06.2023, much after the cutoff date 01.01.2015. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date 01.01.2015 issued on the address of the Jhuggi No. A-81 regarding which he is claiming allotment from DDA and further, the name of the Appellant/Claimant also does not appear in any of the Voter Lists of the years from 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey, therefore, the Appellant/Claimant is not entitled for claiming alternative allotment from DDA.

45. The Appellant/Claimant has tendered the Electricity Bill (Annexure-F), Ration Card (Annexure-G) and the Passbook of Bank of Baroda (Annexure-H) in support of his claim.

46. It is pointed out that the Electricity Bill (Annexure-F) shows that the Appellant/Claimant had taken electricity connection on 17.02.2009. Furthermore, Ration Card No. 077004389934 (Annexure-G) has been issued in favour of his wife Meera Devi and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. The Passbook of Bank of Baroda (Annexure-H) shows that the Appellant/Claimant had opened the account on 21.07.2017, much after the cutoff date 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because

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as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. A-81, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

48. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. A-81, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-I, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her eligible to seek

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allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

49. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-76/39.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

Appeal No: 68 of 2024

Date of Institution: 12.07.2023

Date of Order: 02.07.2024

Present: Appellant/ Claimant Ramsurat S/o Ram Saran

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. H-65, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. H-65 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, Jailorwala Bagh, duly communicated its order bearing No. 350-33/61.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 68 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 03.06.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-H, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. H-65 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. H-65 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Ram Surat has been recorded before us on 03.06.2024, wherein he has stated that he is married with Sita and having four sons, Krishna, Ankit, Aman & Surinder and two daughters, Shweta & Kusum. All the children except Shweta

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are unmarried. Shweta is married with Harinder and she is living in her matrimonial home in Gaziabad, Uttar Pradesh.

9. The Appellant/Claimant has stated that he had purchased a double storey Jhuggi No. H-65 on 05.05.2014 from Babulal S/o Julmi for a sale consideration of Rs. 37,000/-. Thereafter, he along with his family started living there. This Jhuggi No. H-65 comprises of one room on each floor and an iron ladder is placed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that he has sought allotment from DDA against the said double storey Jhuggi No. H-65 but his claim has been rejected by the Eligibility Determination Committee on the grounds that he was found to have claimed allotment against the upper floor and further his Voter ID Card could not be verified in spite of the fact that he has sought allotment against the said double storey Jhuggi No. H-65 and further he is having all the requisite documents as per the policy guidelines issued by DDA and accordingly aggrieved by the same he has filed the present Appeal No. 68 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered, document, Annexure-A to Annexure- H, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished survey records along of Jhuggi No. H-65. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. H-65 on 18.03.2020 on the ground floor of the said Jhuggi and his photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of videography the Appellant/Claimant was not present and accordingly no video clip of Jhuggi No. H-65 is available in token thereof.

12. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records, about the existence of the double storey Jhuggi No. H-65. Thus the statement of the Appellant/Claimant as well as the survey records has duly proved that the double storey Jhuggi No. H-65 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the same for residential purposes.

13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. H-65 was in

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existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

14. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi No. H-65 as per the policy guidelines issued by DDA.

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

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-33/61.G dated 01.07.2023.

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

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"Part-B

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

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

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

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

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

18. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

19. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

20. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of

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01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

21. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

23. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

24. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment

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against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

25. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

26. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development**

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Authority" in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

27. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

28. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

29. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used

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as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

30. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

31. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility

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criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

32. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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

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to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

37. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

38. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-

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2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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

40. It is pointed out that we have already held that the double storey Jhuggi No. H-65 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

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

42. The Appellant/Claimant has tendered his Voter ID Card No. WHC 2166030 (Annexure-A), Aadhar Card (Annexure-B) & Voter List of the year 2023 (Annexure-H) in support of his claim.

43. It is pointed out that the Voter ID Card No. WHC 2166030 (Annexure-A) of the Appellant/Claimant has been issued on 07.08.2015, much after the cutoff date 01.01.2015 and accordingly, the question of his name appearing in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. The Appellant/Claimant has tendered his Aadhar Card (Annexure-B) and furthermore, his name also appears at Sl. No. 479 in the Voter List of the year 2023 (Annexure-H) but it pertains to the post cutoff date 01.01.2015 and accordingly, the same is not relevant. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. H-65 regarding which he has been claiming allotment from DDA and further his name also does

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

44. The Appellant/Claimant has tendered the Voter ID Card No. WHC 2166023 (Annexure-C) & Aadhar Card (Annexure-D) of his wife Sita, the Electricity Bill (Annexure-E), Ration Card (Annexure-F) and the Passbook of SBI (Annexure-G) in support of his claim.

45. It is pointed out that the Voter ID Card No. WHC 2166023 (Annexure-C) of his wife Sita has been issued on07.08.2015, much after the cutoff date 01.01.2015 and accordingly, the question of her name appearing in the Voter List of the year 2012 to 2015 does not arise. Furthermore, the material placed on file shows that neither the Appellant/Claimant nor his wife Sita was having a valid Voter ID Card on the cutoff date 01.01.2015 issued on the address of the Jhuggi No. H-65 regarding which the Appellant/Claimant has been claiming allotment from DDA and further their names also do not appear in the Voter List of the years from 2012 to 2015. The Electricity Bill (Annexure-E) shows that the Appellant/Claimant had taken electricity connection on 09.03.2015, much after the cutoff date 01.01.2015. The Ration Card (Annexure-F) has been issued in favour of his wife Sita and the name of the Appellant/Claimant is mentioned and further, this Ration Card has been issued on 27.08.2021, much after the cutoff date 01.01.2015. The Passbook of SBI (Annexure-G) shows that the Appellant/Claimant had opened the account on 04.03.2019, much after the cutoff date 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. H-65, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

46. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly accordingly to the meri

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of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

47. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. H-65, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-H, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

48. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-33/61.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

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

Appeal No: 96 of 2024

Date of Institution: 13.07.2023

Date of Order: 02.07.2024

Present: Appellant/ Claimant Sujwanti Devi W/o Surender SIngh

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. A-93, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-93 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the

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Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-76/45.G / dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 96 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 07.06.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-F, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-93 was found to exist but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be "Voter Card Not Verified / Upper Floor" and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. A-93 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Sujwanti Devi has been recorded before us on 07.06.2024, wherein she has stated that she is married with surrender and having three sons, Suraj, Aman & Ritesh. All the children are unmarried.

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9. The Appellant/Claimant has stated that she is having a triple storey Jhuggi No. A-93 and it comprises of one room on each floor and further a joint iron ladder with the neighbor Bijender is placed outside in the gali and it is used by the Appellant/Claimant as well as Bijender for going to the upper floor of their respective Jhuggis.

10. The Appellant/Claimant has stated that she along with her husband Surender and all the three children, Suraj, Aman & Ritesh, is living in the said triple storey Jhuggi No. A-93. The Appellant/Claimant has sought allotment from DDA against the said triple storey Jhuggi NO. A-93 but her claim has been rejected by the Eligibility Determination Committee on the ground that she has been found to have claimed allotment against the upper floor and further her Voter ID Card could not be verified in spite of the fact that she has claimed allotment against the said triple storey Jhuggi No. A-93 and further she is having all the requisite documents as per the policy guidelines issued by DDA and accordingly, aggrieved by the same she has filed the present Appeal 96 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered document, Annexure-A to Annexure-F in support of her claim and prayed that DDA be directed to make allotment in her favour.

11. DDA has furnished survey records along with one video clip of Jhuggi No. A-93. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. A-93 on 22.11.2020 on the ground floor of the said Jhuggi and his photographs & that of his family are also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography, the Appellant/Claimant, was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

12. DDA has furnished the survey records along with one video clip of Jhuggi No. A-93. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 07.06.2024 wherein the Appellant/Claimant has stated that the video clip pertains to the Jhuggi No. A-93 in which the Jhuggi No. A-93 from outside is clearly seen to be a triple storey pucca Jhuggi and further, joint iron ladder is placed outside in the gali and used for going to the upper floor by the Appellant/Claimant as well as neighbor Bijender is also seen and further, the Appellant/Claimant is seen and getting the survey conducted and her Jhuggi No. A-93 and her room & kitchen are seen and further, she is also seen holding a slate in her

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hand on which **"A-93 SUJWANTI G+1"** is seen to have been written.

13. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records about the existence of the triple storey Jhuggi No. A-93. Thus the statement of the Appellant/Claimant as well as the survey records has duly proved that the triple storey Jhuggi No. A-93 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the same for residential purposes.

14. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. A-93 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment against the said double storey Jhuggi.

15. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the triple storey Jhuggi No. A-93 as per the policy guidelines issued by DDA.

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

17. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cutoff

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date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-76/45.G dated 01.07.2023.

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

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

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

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

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

19. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

20. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document

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

21. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

22. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

24. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

25. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

26. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

28. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

29. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed

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

30. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

31. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card.

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

32. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

33. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

35. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench

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in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

36. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

38. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must

appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

39. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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

41. It is pointed out that we have already held that the double storey Jhuggi No. A-93 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said triple storey Jhuggi, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

42. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the double storey Jhuggi No. A-93 as per the policy guidelines issued by DDA.

43. The Appellant/Claimant has tendered the Voter ID Card No. WHC 2153302 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of her claim.

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44. It is pointed out that the Voter ID Card No. WHC 2153302 (Annexure-A) has been issued on 23.01.2015, much after the cutoff date 01.01.2015 and accordingly, the question of her name appearing in voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-93 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

45. The Appellant/Claimant has tendered the Electricity Bill (Annexure-D), the Passbook of PNB (Annexure-E) and the Ration Card (Annexure-F) in support of her claim.

46. It is pointed out that the Electricity Bill (Annexure-D) shows that electricity connection was taken by her husband Surender on 05.09.2014. The Passbook of PNB (Annexure-E) shows that the Appellant/Claimant had opened the account on 10.02.2009 on the address of Lal Bagh, Azadpur and not on the address of the Jhuggi No. A-93, Jailorwala Bagh regarding which the Appellant/Claimant has been claiming allotment from DDA and accordingly this document is not relevant to determine the eligibility of the Appellant/Claimant. The Ration Card (Annexure-F) has been issued in favour of the Appellant/Claimant and in that the name of her husband and all the three sons have been mentioned but it has been issued on 31.01.2018, much after the cutoff date 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-93 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

47. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy

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in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly accordingly to the merit of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

48. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-93 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-F, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

49. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-76/45.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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50. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.20232passed by Hon'ble High Court of Delhi in WP(C) No. 6728/20232and C.M. Appeal 25594/20232titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

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

Appeal No: 223 of 2024

Date of Institution: 24.07.2023

Date of Order: 03.07.2024

Present: Appellant/ Claimant Manoj Kumar S/o Lal Chand

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. F-148/2, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. F-148/2 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has

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rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-108/76.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 223 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 30.05.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-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. Radhey Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. F-148/2 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. F-148/2 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Manoj Kumar has been recorded before us on 30.05.2024 wherein he has stated that his parents, Lalchand & Savitri, are having two sons, Santosh & Manoj and two daughters, Manju & Sushila. Savitri had expired in the year 2021.

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All the children are married. Manju is married with Munna and she is living in her matrimonial home in Mumbai, Maharashtra. Sushila is married with Vijay and she is living in her matrimonial home in Jaunpur, Uttar Pradesh. Santosh is married with Nirjala and having three children and they are living in Wazirpur, Delhi. Manoj (Appellant/Claimant) is married with Suman and having two children, Harsh & Vaibhav.

9. The Appellant/Claimant has stated that previously his parents, Lal Chand & Savitri, as well as the family of both the brothers, Santosh & Manoj (Appellant/Claimant, were living in Wazirpur, Delhi. However, in the year 2015, the Appellant/Claimant has purchased the double storey Jhuggi No. F-148/2 in Jailorwala Bagh, Ashok Vihar from one Radhey Shyam for a sale consideration of Rs. 12000/-. After purchasing the same the Appellant/Claimant along with his family as well as his parents had shifted to Jhuggi No. F-148/2, Jailorwala Bagh, Ashok Vihar whereas Santosh along with his family is still living in Wazirpur, Delhi.

10. It is pointed out that the Appellant/Claimant has made a vague statement that he had purchased the double storey Jhuggi No. F-148/2, Jailorwala Bagh, Ashok Vihar in the year 2015 from one Radhey Shyam for a sale consideration of Rs. 12000/-. But he has not disclosed the date & month of purchase but simply stated that it was purchased in the year 2015. Furthermore, no sale document or receipt of having paid the amount is placed on file and accordingly the exact date of sale cannot be ascertained. Had the Appellant/Claimant purchased the double storey Jhuggi No. F-148/2 on 01.01.2015 then he would have certainly come forward with specific assertion of facts. But not disclosing the exact date of sale and simply mentioning that it was purchased in the year 2015 shows that the said Jhuggi was purchased by him after the cutoff date of 01.01.2015. Thus the fact remains that the Appellant/Claimant has specifically admitted that he had purchased the Jhuggi No. F-148/2 in the year 2015 and accordingly, the question of his living in Jhuggi No. F-148/2 on the cutoff date 01.01.2015 does not arise.

11. The Appellant/Claimant has stated that the Jhuggi No. F-148/2 is a double storey structure and it comprises of one room on the ground floor and two rooms on the first floor and an iron ladder is placed outside in the gali and it is used for going to the upper floor. The Appellant/Claimant has sought allotment from DDA against the double storey Jhuggi No. F-148/2 but his claim has been rejected by the Eligibility Determination Committee on the ground that he was found to be living on the upper floor and further his Voter ID Card could not be verified in spite of the fact that he has sought allotment from DDA against the said

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double storey Jhuggi No. F-148/2 and further he is having all the requisite document as per the policy guidelines issued by DDA and accordingly, aggrieved by the same he has filed the present Appeal No. 223 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-F, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished survey records of Jhuggi No. F-148/2. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. F-148/2 on 19.03.2020 on the ground floor of the said Jhuggi and his photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of videography the Appellant/Claimant was not present and accordingly no video clip is attached in token thereof. The Appellant/Claimant has stated that his Jhuggi No. F-148/2 was surveyed but no videography was prepared because at the time of survey he was not present.

13. The admission of the Appellant/Claimant is a clincher piece of evidence because he has categorically stated that previously his parents, Lal Chand & Savitri, as well as the family of both the brothers, Santosh & Manoj (Appellant/Claimant), were living in Wazirpur, Delhi. However, in the year 2015, the Appellant/Claimant has purchased a double storey Jhuggi No. F-148/2 in Jailorwala Bagh, Ashok Vihar from one Radhey Shyam for a sale consideration of Rs. 12000/-. After purchasing the same the Appellant/Claimant along with his family as well as his parents had shifted to Jhuggi No. F-148/2, Jailorwala Bagh, Ashok Vihar whereas Santosh along with his family is still living in Wazirpur, Delhi.

14. Thus the admission of the Appellant/Claimant accordingly shows that he was not living in Jhuggi No. F-148/2 on the cutoff date 01.01.2015 because before 2015 he was living jointly with his brother Santosh in Wazirpur, Delhi and he has shifted to Jhuggi No. F-148/2, Jailorwala Bagh, Ashok Vihar after the Jhuggi was purchased by him from one Radhe Shyam for a sale consideration of Rs. 12000/-. However, no sale document or receipt of having paid the amount is placed on file but the fact remains that the Appellant/Claimant has specifically admitted that he had purchased the Jhuggi No. F-148/2 in the year 2015 and accordingly, the question of his living in Jhuggi No. F-148/2 on the cutoff date 01.01.2015 does not arise.

15. It is pointed out that DDA has not disputed about the existence of double storey Jhuggi No.

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F-148/2 but the Appellant/Claimant has come to occupy the same in the year 2015 after it was allegedly purchased by him from one Radhey Shyam and thus accordingly on the cutoff date of 01.01.2015 the Appellant/Claimant was not living and using the same for residential purposes. Accordingly, we have no hesitation in holding that the Appellant/Claimant is not entitled to claim alternative allotment from DDA against the said double storey Jhuggi as per the policy guidelines issued by DDA.

16. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi No. F-148/2 as per the policy guidelines issued by DDA.

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

18. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-108/76.Gdated 01.07.2023.

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

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

"Part-B

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

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

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

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

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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."

20. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

21. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

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

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the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

23. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

25. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

26. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an

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option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

27. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

28. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court

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of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

29. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

30. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

31. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons.

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The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

32. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

33. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against

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the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

34. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

37. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February,

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2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

39. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

40. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must

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

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

42. It is pointed out that we have already held that DDA has not disputed about the existence of double storey Jhuggi No. F-148/2 but the Appellant/Claimant has come to occupy the same in the year 2015 after it was allegedly purchased by him from one Radhey Shyam and thus accordingly on the cutoff date of 01.01.2015 the Appellant/Claimant was not living and using the same for residential purposes. Accordingly, we have no hesitation in holding that the Appellant/Claimant is not entitled to claim alternative allotment from DDA against the said double storey Jhuggi as per the policy guidelines issued by DDA but inspite of these admitted facts the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

43. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi No. F-148/2 as per the policy guidelines issued by DDA.

44. The Appellant/Claimant has tendered his Aadhar Card (Annexure-A) and PAN Card (Annexure-B) in support of his claim.

45. It is pointed out that the Appellant/Claimant specifically admitted that he has not got issued the Voter ID Card in his favour on the address of the Jhuggi No. F-148/2. This accordingly shows that the Appellant/Claimant was not having Voter ID Card on the cutoff date 01.01.2015 and accordingly, the question of his name appearing in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not

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having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. F-148/2 regarding which he has been claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

46. The Appellant/Claimant has tendered Aadhar Card (Annexure-C), PAN Card (Annexure-D) of his wife Suman, Electricity Bill (Annexure-E) and the Passbook of SBI (Annexure-F) in support of his claim.

47. It is pointed out that the Appellant/Claimant has not tendered Voter ID Card of his wife Suman and accordingly, it cannot be ascertained as to whether she was having Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. F-148/2 regarding which the Appellant/Claimant has been claiming allotment from DDA. This shows that neither the Appellant/Claimant nor his wife Suman was having Voter ID Card on the cutoff date 01.01.2015 and further their names also do not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. It is pointed out that the Electricity Bill (Annexure-E) shows that the Appellant/Claimant had taken the electricity connection on 12.06.2015, much after the cutoff date 01.01.2015. Furthermore, the Passbook of SBI (Annexure-F) shows that the Appellant/Claimant had opened the account on 20.01.2012 on the address of Wazirpur where he was previously living prior to 2015 and accordingly this document is not relevant to determine the eligibility of the Appellant/Claimant as it does not pertain to Jhuggi No. F-148/2 regarding which he has been claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. F-148/2, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

48. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy

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in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly accordingly to the merit of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

49. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not living in the double storey Jhuggi No. F-148/2, Jailorwala Bagh on the cutoff date of 01.01.2015 because it was purchased later on and further the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. F-148/2, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-F, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

50. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-108/76.G dated

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01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

3.7.2024

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

3/7/2024

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

3/7/2024

(Rachna Tiwary)
EXPERT MEMBER

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

Appeal No: 52 of 2024

Date of Institution: 12.07.2023

Date of Order: 03.07.2024

Present: Appellant/ Claimant Monika W/o Bhullan

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. N-207/1472, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. N-207/1472 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the

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Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-20/009.1 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 52 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 28.06.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. N-207/1472 was found to exist but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. N-207/1472 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Monika has been recorded before us on 28.06.2024 wherein she has stated that her in-laws, Bhagwan Deen & Dhiraja, are having four sons; Ram Charan, Lalu, Vijay Pal & Bhullan and two daughters; Ram Kishori & Dukh

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Raja. Both the in-laws have died. All the children are married. Dukh Raja is married with Raju and she is living in Barabanki, Uttar Pradesh. Ram Kishori had expired about 10-15 years ago. Ram Charan is married with Arti Devi and having two children. Lalu is married with Renu and having one child. Vijay Pal is married with Anita and having two daughters and they are living on rent in Noida. Bhullan is married with Monika (Appellant/Claimant) and having two children; Shivam & Nandini. Bhullan had expired on 07.10.2011 and his Death Certificate in Annexure-J.

9. The Appellant/Claimant has stated that Lalu along with his wife Renu and the child is living in a separate Jhuggi in Jailorwala Bagh and regarding that DDA has made allotment in favour of Lalu. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that her family is having a double Jhuggi No. N-207/1472, Jailorwala Bagh, Ashok Vihar and it comprises of one room on each floor and a bamboo ladder has been placed outside in the gali and it is used for going to the upper floor.

11. The Appellant/Claimant has stated that Ram Charan along with his wife Arti Devi and both the children is living on the ground floor of the said double storey Jhuggi No. N-207/1472 and regarding that DDA has made alternative allotment in favour of Arti Devi W/o Ram Charan. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that she along with her husband Bhullan (until his death) and both the children; Shivam & Nandini, is living on the first floor of the Jhuggi No. N-207/1472 and regarding that the Appellant/Claimant has sought allotment from DDA but her claim has been rejected by Eligibility Determination Committee on the ground that her Voter ID Card could not be verified and further she was found to be claiming allotment against the upper floor in spite of the fact that admittedly she has sought allotment against the first floor of the Jhuggi No. N-207/1472 and further she is having all the requisite documents as per policy guidelines issued by DDA accordingly, aggrieved by the same, she has filed the present Appeal No. 52 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of her claim and prayed that DDA be directed to make allotment in her favour.

13. DDA has furnished survey records along with one video clip of Jhuggi No. N-207/1472. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. N-207/1472 on 18.03.2020 on the ground floor of the said Jhuggi and her photographs are also

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attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

14. DDA has furnished survey record along with two video clips pertaining to the Jhuggi No. N-207/1472. The videos were played before the Appellant/Claimant when her statement was recorded before us on 28.06.2024 wherein she has stated that the first video clip pertains to the ground floor of the Jhuggi No. N-207/1472 in which Arti W/o Ram Charan is seen and getting the survey conducted on the ground floor and her room & kitchen are also seen and further, she is also seen holding a slate in his hand on which **"E-18- N-207/1472 AARTI DEVI G.F"** is seen to have been written and further, she is also heard making a statement that they are living on the ground floor for the last 30 years and her sister-in-law is living on the first floor. The second video clip pertains to the first floor of the Jhuggi No. N-207/1472 in which the Appellant/Claimant Monika is seen and getting the survey conducted and further, her room & kitchen are also seen. Further, she is also seen holding a slate in her hand on which **"E-18 - N-207/1472 F.F"** is clearly seen to have been written.

15. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the double storey Jhuggi No. N-207/1472. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. N-207/1472 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the same for residential purposes.

16. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. N-207/1472 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

17. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015

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and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the double storey Jhuggi No. N-207/1472 as per the policy guidelines issued by DDA.

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

19. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-20/009.1dated 01.07.2023.

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.

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

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

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

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slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

21. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

22. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

23. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

26. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

27. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against

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the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

28. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

30. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence,

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as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

31. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

32. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and

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reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

33. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

34. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

35. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16

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were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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

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floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

40. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

41. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

42. Now in the light of our discussion above, we shall determine the eligibility of the present

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Appellant/Claimant as per the policy guidelines issued by DDA.

43. It is pointed out that we have already held that the double storey Jhuggi No. N-207/1472 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

44. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the double storey Jhuggi No. N-207/1472 as per the policy guidelines issued by DDA.

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

46. It is pointed out that the Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-B and both the Voter ID Cards (Annexure-A & Annexure-B) are bearing the same number i.e. WHC 2167020. The first Voter ID Card (Annexure-A) of the Appellant/Claimant has been issued on the address of the Jhuggi No. N-267, Jailorwala Bagh on 07.08.2015, much after the cutoff date of 01.01.2015 and accordingly, the question of her name appearing in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Furthermore, this Voter ID Card has been issued on the address of the Jhuggi No. N-267 and not on the address of the Jhuggi No. N-207/1472, regarding which the Appellant/Claimant has been claiming allotment from DDA and accordingly, this document is not relevant to determine the eligibility of the Appellant/Claimant.

47. The second Voter ID Card (Annexure-B) of the Appellant/Claimant has been issued on the address of the Jhuggi No. N-207/1472, regarding which she is claiming allotment from DDA and further, this Voter ID Card has been issued on 17.06.2017, much after the cutoff date of

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01.01.2015 and accordingly, the question of her name appearing in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. N-207/1472 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

48. The Appellant/Claimant has tendered the Passbook of Indian Bank (Annexure-E), Income Certificate issued by Revenue Department (Annexure-F), Ration Card (Annexure-G), Aadhar Cards (Annexure-H & Annexure-I) of her children; Shivam & Nandini in support of her claim.

49. It is pointed out that the Passbook of Indian Bank (Annexure-E) shows that the Appellant/Claimant had opened the account on 06.07.2016, much after the cutoff date of 01.01.2015. The Income Certificate (Annexure-F) issued by Revenue Department has been issued on 09.11.2017, much after the cutoff date of 01.01.2015. Furthermore, the Ration Card (Annexure-G) is bearing No. 077005263120 and it has been issued in favour of the Appellant/Claimant and the name of her children is mentioned but it has been issued on 27.07.2020, much after the cutoff date of 01.01.2015. It is also pointed out that the Aadhar Cards (Annexure-H & Annexure-I) of her children Shivam & Nandini have been issued on 06.07.2022 & 13.04.2021 respectively. It is also pointed out that the Appellant/Claimant has not tendered the Voter ID Card & Aadhar Card of her husband Bhullan to show that he was having documents issued on the address of Jhuggi No. N-207/1472 regarding which the Appellant/Claimant has been claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. N-207/1472 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

51. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. N-207/1472 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-J, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

52. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim.

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There is no infirmity and illegality in the impugned order bearing No. 350-20/009.1dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

53. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.20232passed by Hon'ble High Court of Delhi in WP(C) No. 6728/20232and C.M. Appeal 25594/20232titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

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

Appeal No: 240 of 2024

Date of Institution: 27.07.2023

Date of Order: 08.07.2024

Present: Appellant/ Claimant Ram Parkash S/o Ram Sanjeevan

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-16, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-16 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has

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rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-76/33.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 240 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 20.06.2024.The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-G, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-16 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. A-16 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Ram Prakash has been recorded before us on 20.06.2024 wherein he has stated that his parents, Ram Sajeevan & Kamla Devi, are having two sons; Om Prakash & Ram Prakash and three daughters; Kanchan, Kiran & Puja. His

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parents, Ram Sajeevan & Kamla Devi, were living their native village in Pratapgarh, Uttar Pradesh, but Ram Sajeevan has expired on 29.09.2022 and his Death Certificate is Annexure-E. All the children are married. Kanchan is married with Chotelal and Piya is married with Turfan and both of them are living in their respective matrimonial homes in Pratapgarh, Uttar Pradesh. Kiran is married with Amarnath and she is living in her matrimonial home in Mumbai, Maharashtra. Om Prakash is married with Sushila and having one son Lokesh and they are also living in Sonbhadra, Uttar Pradesh. Ram Prakash (Appellant/Claimant) is married with Seema and having two children; Diksha & Manvi.

9. The Appellant/Claimant has stated that he is having a single storey Jhuggi No. A-16 in Jailorwala Bagh, Ashok Vihar and it comprises of one room and the roof is made with tin sheets. The Appellant/Claimant has stated that his wife Seema along with both the daughters; Diksha & Manvi is living in their native village in District Pratapgarh, Uttar Pradesh whereas the Appellant/Claimant is living alone in the Jhuggi No. A-16, Jailorwala Bagh, Ashok Vihar.

10. The Appellant/Claimant has sought allotment from DDA regarding that said single storey Jhuggi No. A-16 but his claim has been rejected by Eligibility Determination Committee on the ground that he was found to be claiming allotment against the upper floor and further his Voter ID Could not be verified in spite of the fact that he has claimed against the single storey Jhuggi No. A-16 and further he is having all the requisite documents as per policy guidelines issued by DDA and accordingly, aggrieved by the same, he has filed the present Appeal No. 240 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-G, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished survey records along with one video clip of Jhuggi No. A-16. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. A-16 on 22.11.2020 on the ground floor of the said Jhuggi and his photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

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12. DDA has furnished survey record along with one video clip. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 20.06.2024 wherein he has stated that the video clip pertains to the Jhuggi No. A-16 in which the Jhuggi No. A-16 is clearly seen from outside to be a single storey structure and an having roof made with tin sheet and further, the Appellant/Claimant Ram Prakash is seen and getting the survey conducted and further, his room & kitchen are seen and further, he is also seen holding a slate in his hand on which **"A-16 RAM PRAKASH G.F"** is clearly seen to have been written.

13. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the single storey Jhuggi No. A-16. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the single storey Jhuggi No. A-16 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is living in the said single storey Jhuggi No. A-16 and using the same for residential purposes.

14. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. A-16 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant was & is still using the said single storey Jhuggi No. A-16 for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi.

15. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the single storey Jhuggi No. A-16 as per the policy guidelines issued by DDA.

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

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

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

"Part-B

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

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

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

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

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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."

18. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

19. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

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

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the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

21. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

23. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

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option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

25. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

26. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court

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of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

27. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

28. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

29. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons.

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The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

30. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

31. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against

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the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

32. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

35. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February,

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2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

37. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

38. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must

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

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

40. It is pointed out that we have already held that the single storey Jhuggi No. A-16 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

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

42. The Appellant/Claimant has tendered his Voter ID Card No. WHC 3654084 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter List of the year 2024 (Annexure-F) in support of his claim.

43. It is pointed out that the Appellant/Claimant has tendered his Voter ID Card (Annexure-A) bearing No. WHC 3654084 and it has been issued on 31.01.2023, much after the cutoff date of 01.01.2015 and accordingly, the question of his name appearing in any of the Voter List of the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey does not arise. The name of the Appellant/Claimant appears at Sl. No. 119 in the Voter List of the year 2024 (Annexure-F) but it is not relevant as it pertains to the post cut-off period of 01.01.2015. Furthermore, the Aadhar Card (Annexure-B) of the Appellant/Claimant has been issued on 12.05.2015, much after the cutoff date of 01.01.2015. Therefore, we have

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no hesitation in holding that the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. A-16, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further, his name also does not appear in the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant is not entitled for claiming alternate allotment from DDA.

44. The Appellant/Claimant has tendered the Passbook of SBI (Annexure-D) and the Electricity Bill (Annexure-G) in support of his claim.

45. It is pointed out that the the Passbook of SBI (Annexure-D) shows that the Appellant/Claimant has opened the account on 17.08.2015, much after the cutoff date of 01.01.2015 and further the address is mentioned to be village Banda Khutar, Post Chhatarpur Sadar and not Jhuggi No. A-16, Jailorwala Bagh, regarding which he is claiming allotment from DDA and accordingly this document is not material to determine the eligibility of the Appellant/Claimant. It is also pointed out that the Electricity Bill (Annexure-G) shows that the electricity connection has been taken by the Appellant/Claimant on 18.03.2009 on the address of Jhuggi No. A-86, Jailorwala Bagh Appellant/Claimant but by interpolation the address has been changed to A-16 and this creates doubt & suspicion as the Appellant/Claimant has forged & fabricated documents to grab allotment from DDA by hook or crook. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. A-16, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

46. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly accordingly to the merit of the individual case as per the material available in individual files of all the Applicants JJ

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dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

47. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. A-16, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-G, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

48. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-76/33.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

49. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 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.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

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

Appeal No: 45 of 2024

Date of Institution: 11.07.2023

Date of Order: 08.07.2024

Present: Appellant/ Claimant Pratibha Kumari W/o Amar Nath Mandal

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. D-85, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-85 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

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rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-82/03.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 45 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 28.06.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-G, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-85 was found to exist but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. D-85 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Pratibha has been recorded before us on 28.06.2024 wherein she has stated that her in-laws, Jageshwar Mandal & Phoolan, are having two sons; Amarnath & Rohit and one daughter; Chandrekha. All the children are married. Chandrekha is married with Amit and she is living in with her parents in Jailorwala

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Bagh, Ashok Vihar. Rohit is married with Puja and having one daughter Harshita. Amarnath is married with Pratibha (Appellant/Claimant) and having two children; Aryan & Ankita.

9. The Appellant/Claimant has stated that her family is having a double Jhuggi No. D-85, Jailorwala Bagh, Ashok Vihar and it comprise of two interconnected rooms on the ground floor and one room on the first floor and a pucca staircase has been constructed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that her in-laws, Jageshwar Mandal & Phoolan, along with the family of their son Rohit as well as with the family of their daughter Chandrekha are living in the interconnected rooms on the ground floor of the said double storey Jhuggi No. D-85 and regarding that her mother-in-law, Phoolan, had sought alternative allotment from DDA but the Appellant/Claimant does not know the fate as to whether DDA has made alternative allotment to Phoolan or not.

11. The Appellant/Claimant has stated that she along with her husband Amarnath and both the children; Aryan & Ankita, is living on the first floor of the Jhuggi No. D-85 and regarding that the Appellant/Claimant has sought allotment from DDA but her claim has been rejected by Eligibility Determination Committee on the ground that she was found to be claiming allotment against the upper floor in spite of the fact that admittedly she has admittedly sought allotment against the first floor of the Jhuggi No. D-85 and further she is having all the requisite documents as per policy guidelines issued by DDA and accordingly, aggrieved by the same, she has filed the present Appeal No. 45 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-G, in support of her claim and prayed that DDA be directed to make allotment in her favour.

12. DDA has furnished survey records along with two video clips of Jhuggi No. D-85. As per survey records the survey was got conducted on 18.03.2020 by the Appellant/Claimant of Jhuggi No. D-85 and her photographs are also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography Rohit, who is the brother-in-law of the Appellant/Claimant was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

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13. DDA has furnished survey record along with two video clips pertaining to the Jhuggi No. D-85. The videos were played before the Appellant/Claimant when her statement was recorded before us on 28.06.2024 wherein she has stated that the first video clip pertains to the ground floor of the Jhuggi No. D-85 in which from outside the Jhuggi is clearly seen to be a double storey structure and a pucca staircase is also seen constructed outside in the gali and used for going to the upper floor and further, Rohit, who is her brother-in-law, is seen and getting the survey conducted on behalf of his mother Phoolan and further, two interconnected rooms on the ground floor are seen and further, Rohit is also seen holding a slate in his hand on which **"D-85 PHOOLAN DEVI NOT IN LIST G.F"** is seen to have been written. The second video clip pertains to the first floor of the Jhuggi No. D-85 in which the said Rohit is seen and getting the survey conducted on behalf of the Appellant/Claimant Pratibha Kumari and her room & kitchen on the first floor are also seen and further, Rohit is also seen holding a slate in his hand on which **"D-85 PRATIBHA KUMARI F.F"** is clearly seen to have been written.

14. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case about the existence of the double storey Jhuggi No. D-85. Thus the statement of the Appellant/Claimant has duly proved that the double storey Jhuggi No. D-85 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and her in-laws, Jageshwar Mandal & Phoolan, along with the family of their son Rohit as well as with the family of their daughter Chandrekha are living in the interconnected rooms on the ground floor of the said double storey Jhuggi No. D-85 whereas the Appellant/Claimant along with her family is living on the first floor of the said double storey Jhuggi No. D-85 and is using the same for residential purposes.

15. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. D-85 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still living on the first floor of the said double storey Jhuggi No. D-85 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi.

16. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the

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cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of the said double storey Jhuggi No. D-85 as per the policy guidelines issued by DDA.

17. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-G, in support of her claim and prayed that DDA be directed to make allotment against the first floor of the said double storey Jhuggi No. D-85 in her favour.

18. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-82/03.Gdated 01.07.2023.

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.

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

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

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

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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."

20. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

21. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

22. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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FIRST FLOOR - REQUIREMNET OF DOCUMENTS

23. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

25. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

26. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the

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dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

27. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

29. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential

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commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

30. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

31. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the

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petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

32. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

33. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

34. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16

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were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

37. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age

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and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

39. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

40. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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

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42. It is pointed out that we have already held that the double storey Jhuggi No. D-85 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still living on the first floor of the said double storey Jhuggi No. D-85 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the first floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

43. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor of the said double storey Jhuggi No. D-85 as per the policy guidelines issued by DDA.

44. The Appellant/Claimant has tendered her Voter ID Card No. WHC 2239266 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of her claim.

45. It is pointed out that Voter ID Card No. WHC 2239266 (Annexure-A) of the Appellant/Claimant has been issued on 25.01.2019, much after the cutoff date of 01.01.2015 and accordingly, the question of her name appearing in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. D-85 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

46. The Appellant/Claimant has admitted that she was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-85 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered the Ration Card No. 077005467313 (Annexure-D) in support of her claim. It is pointed out that this Ration Card No. 077005267313 (Annexure-D) has been issued in favour of the

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Appellant/Claimant and further, the name of her husband Amarnath is also mentioned and this Ration Card has been issued on 07.09.2020, much after the cutoff date of 01.01.2015. The fact remains that the Appellant/Claimant was not having a separate Ration Card issued on the address of the first floor of the Jhuggi No. D-85, regarding which she is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

47. The Appellant/Claimant has tendered the Voter ID Card No. WHC 1809622 (Annexure-E) & Aadhar Card (Annexure-F) of her husband Amarnath and Electricity Bill (Annexure-G) in support of her claim.

48. It is pointed out that the Voter ID Card No. WHC 1809622 (Annexure-E) of Amarnath has been issued on 22.03.2012, much prior to the cutoff date of 01.01.2015 but no Voter List has been placed on file to show that he had used his Voter ID Card to cast vote in any of the election and more particularly in the year from 2012 to 2015. Furthermore, the Electricity Bill (Annexure-G) shows that her father-in-law Jageshwar Mandal had taken the electricity connection on 06.03.2009 thereby showing that the Appellant/Claimant was not having a separate electricity connection on the first floor of the Jhuggi No. D-85, regarding which she is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. D-85 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

49. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly accordingly to the merit of the individual case as per the material available in individual files of all the Applicants JJ

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dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

50. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 issued on the first floor of Jhuggi No. D-85 regarding which she is claiming allotment from DDA in spite of the fact that he is claiming allotment from DDA against the upper floor AND further the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. D-85 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-G, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

51. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-82/03.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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52. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.20232passed by Hon'ble High Court of Delhi in WP(C) No. 6728/20232and C.M. Appeal 25594/20232titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

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

Appeal No: 144 of 2024

Date of Institution: 17.07.2023

Date of Order: 09.07.2024

Present: Appellant/ Claimant Mamta W/o Sunny

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. D-77, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-77 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the

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Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-32/001.1 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 144 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 18.06.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's single storey Jhuggi bearing No. D-77 was found to exist but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. D-77 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Mamta has been recorded before us on 18.06.2024 wherein she has stated that her in-laws, Gian Chand & Sheela Devi, are having four sons; Santosh, Sunny, Sunil & Deepak. All the children except Deepak are married.

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Santosh is married with Madhuri and having two children. Sunil is married with Sushma and having two children. Sunny is married with Mamta (Appellant/Claimant) and having four children; Ananya, Chetna, Shagun & Pihu.

9. The Appellant/Claimant has stated that her family is having a double Jhuggi No. D-77, Jailorwala Bagh, Ashok Vihar and it comprises of two rooms on each floor and a pucca staircase has been constructed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that her in-laws, Gian Chand & Sheela Devi, along with their unmarried son Deepak are living in the first room on the ground floor of the Jhuggi No. D-77 and regarding that DDA has made alternative allotment in favour of Gian Chand. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that Santosh along with his wife Madhuri and both the children is living in the second room on the ground floor of the Jhuggi No. D-77 and regarding that DDA has made allotment in favour of Santosh. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that Sunil along with his wife Sushma and both the children is living in the first room on the first floor of the Jhuggi No. D-77 but he has not submitted any representation to claim alternative allotment from DDA. These facts are not disputed by DDA.

13. The Appellant/Claimant has stated that she along with her husband Sunny and all the four children; Ananya, Chetna, Shagun & Pihu, is living in the second room on the first floor of the Jhuggi No. D-77 and regarding that the Appellant/Claimant has sought allotment from DDA but her claim has been rejected by Eligibility Determination Committee on the ground that she was found to be living on the upper floor in spite of the fact that she has admittedly sought allotment from DDA against the first floor of the Jhuggi No. D-77 and further she is having all the requisite documents as per policy guidelines issued by DDA and accordingly, aggrieved by the same, she has filed the present Appeal No. 144 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of her claim and prayed that DDA be directed to make allotment in her favour.

14. DDA has furnished survey records along with one video clip of Jhuggi No. D-77. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. D-77 on

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17.03.2020 on the first floor of the said Jhuggi and her photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

15. DDA has furnished survey records along with three video clips pertaining to the Jhuggi No. D-77. The videos were played before the Appellant/Claimant when her statement was recorded before us on 18.06.2024 wherein she has stated that the first video clip pertains to the Jhuggi No. D-77 in which the Jhuggi is clearly seen from outside to be a pucca double storey structure and further, her father-in-law, Gyanchand, is seen and getting the survey conducted on the ground floor and his room & kitchen are also seen and further, he is also seen holding a slate in his hand on which **"D-77 GYANCHAND G.F"** is seen to have been written. In the second video clip, the Jhuggi is again seen to be a pucca double storey structure from outside and further her brother-in-law, Santosh, is seen and getting the survey conducted in the second room on the ground floor and further, his room & kitchen are also seen and he is seen holding a slate in his hand on which **"D-77 SNATOSH KUMAR G.F"** is seen to have been written. The third video clip pertains to the first floor of the Jhuggi No. D-77 in which a pucca staircase going from the ground floor to the first floor is seen and further, the Appellant/Claimant Mamta is seen and getting the survey conducted and her room & kitchen are also seen. Further, she is also seen holding a slate in her hand on which **"D-77 MAMTA F.F"** is clearly seen to have been written. Further, the second room on the first floor is also seen to be lying closed.

16. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case about the existence of the double storey Jhuggi No. D-77. Thus the statement of the Appellant/Claimant has duly proved that the double storey Jhuggi No. D-77 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and her in-laws, Gyan Chand & Sheela Devi, are living in one of the rooms on the ground floor of the said double storey Jhuggi No. D-77 and regarding that DDA has made alternative allotment in favour of Gyan Chand and whereas Santosh along with his family is living in the second room on the ground floor of the said double storey Jhuggi No. D-77 and regarding that DDA has made alternative allotment in favour of Santosh and further the Appellant/Claimant

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along with her family is living on the first floor of the said double storey Jhuggi No. D-77 and is using the same for residential purposes.

17. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. D-77 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still living on the first floor of the said double storey Jhuggi No. D-77 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi.

18. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of the said double storey Jhuggi No. D-77 as per the policy guidelines issued by DDA.

19. 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 against the first floor of the said double storey Jhuggi No. D-77 in her favour.

20. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the

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year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-32/001.1 dated 01.07.2023.

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

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

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

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

22. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

23. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of

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

24. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

25. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

27. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

28. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

29. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

31. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

32. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed

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

33. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

34. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card.

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

35. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

36. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

39. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

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

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also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

42. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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

44. It is pointed out that we have already held that the double storey Jhuggi No. D-77 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still living on the first floor of the said double storey Jhuggi No. D-77 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the first floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

45. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor of the said double storey Jhuggi No. D-77 as per the policy guidelines issued by DDA.

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46. The Appellant/Claimant has tendered her Voter ID Card No. WHC 2136132 (Annexure-A) and Aadhar Card (Annexure-B) in support of her claim.

47. It is pointed out that the Appellant/Claimant has tendered her Voter ID Cards bearing number WHC 2136132 and it has been issued on 23.01.2015, much after the cutoff date of 01.01.2015 and accordingly, the question of her name appearing in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. D-77 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

48. The Appellant/Claimant has admitted that she was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-77 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered two Ration Cards (Annexure-E & Annexure-F) in support of her claim. It is pointed out that the old Ration Card (Annexure-E) is bearing No. APL 53030687 and it has been issued in favour of her husband Sunny on 03.10.2007 on the address of the Jhuggi No. CN-239 whereas the Appellant/Claimant has been claiming allotment from DDA against the Jhuggi No. D-77 and further, the complete document is not tendered and accordingly, it could not be ascertained whether the name of the Appellant/Claimant and other family members is mentioned in that document or not. This document being incomplete cannot be considered especially when it has been issued on other address as it has not been issued on the address of Jhuggi No. D-77 regarding which the Appellant/Claimant has been claiming allotment from DDA. The new Ration Card (Annexure-F) is bearing No. 077005183493 and it has been issued in favour of the Appellant/Claimant and the name of her husband Sunny is also mentioned therein and further, this document has been issued on 21.09.2015, much after the cutoff date of 01.01.2015. The fact remains that the Appellant/Claimant was not having a separate Ration Card issued on the address of the first floor of the Jhuggi No. D-77, regarding which she is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

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49. The Appellant/Claimant has also tendered the Voter ID Card No. WHC 0339713 (Annexure-C) & Aadhar Card (Annexure-D) of her husband Sunny, Letter No. F.No. /AERO/AC-17/2023/46 Dated 17.05.2023 issued by AERO, AC-17, Wazirpur (Annexure-G), Voter List of the year 2012 (Annexure-H), Voter List of the year 2013 (Annexure-I) & Voter List of the year 2014 (Annexure-J) and Passbook of SBI (Annexure-K) in support of her claim.

50. It is pointed out that the Voter ID Card No. WHC 0339713 (Annexure-C) of Sunny has been issued on 18.10.2008, much prior to the cutoff date of 01.01.2015. Furthermore, the Letter No. F.No. /AERO/AC-17/2023/46 Dated 17.05.2023 issued by AERO, AC-17, Wazirpur (Annexure-G) duly verifies that the Voter ID Card No. WHC 0339713 (Annexure-C) of her husband Sunny is a valid document and further, his name is also reflected in the Voter Lists of the year 2012 to 2015. Furthermore, the name of her husband Sunny is also mentioned at Sl. No. 774 in the Voter List of the year 2012 (Annexure-H), at Sl. No. 774 in the Voter List of the year 2013 (Annexure-I) & at Sl. No. 780 in the Voter List of the year 2014 (Annexure-J). It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. D-77 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

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52. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 issued on the first floor of Jhuggi No. D-77 regarding which she is claiming allotment from DDA in spite of the fact that she is claiming allotment from DDA against the upper floor AND further the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. D-77 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-K, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

53. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-32/001.1 dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

54. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.20232passed by Hon'ble High

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Court of Delhi in WP(C) No. 6728/20232and C.M. Appeal 25594/20232titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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

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

Appeal No: 237 of 2024

Date of Institution: 27.07.2023

Date of Order: 09.07.2024

Present: Appellant/ Claimant Sommari Devi S/o Sheetla Prasad

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. I-41, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. I-41 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

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rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-81/21.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 237 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 19.06.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-H, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. I-41 was found to exist but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. I-41 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Sommari Devi has been recorded before us on 19.06.2024 wherein she has stated that she is married with Sheetla Prasad and having three children; Krishna, Krish & Neha. All the children are unmarried.

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9. The Appellant/Claimant has stated that previously she along with her family was living in Lal Bagh, Azadpur, Delhi and in the year 2017, they have purchased the Jhuggi No. I-41, Jailorwala Bagh, Ashok Vihar from one Shiv Narayan for a sale compensation of Rs. 1,95,000/-. The said Jhuggi No. I-41, Jailorwala Bagh, Ashok Vihar is a double storey structure and it comprises of one room on each floor and an iron ladder is placed outside in the gali and it is used for going to the upper floor. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi No. I-41 but her claim has been rejected by Eligibility Determination Committee on the ground that she is found to be claiming allotment against the upper floor and further her Voter Card not verified in spite of the fact that she is claiming allotment from DDA against the double storey Jhuggi No. I-41 and further she is having all the requisite documents as per policy guidelines issued by DDA and accordingly, aggrieved by the same, she has filed the present Appeal No. 237 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-H, in support of her claim and prayed that DDA be directed to make allotment in her favour.

10. DDA has furnished survey records along with one video clip of Jhuggi No I-41. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. I-41 on 19.03.2020 on the ground floor of the said Jhuggi and her photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

11. DDA has furnished survey record along with one video clip pertaining to the Jhuggi No. I-41. The video was played before the Appellant/Claimant when her statement was recorded before us on 19.06.2024 wherein she has stated that the video clip pertains to the Jhuggi No. I-41 in which the Jhuggi is clearly seen from outside to be a double storey pucca structure and an iron ladder is also seen going from the ground floor to the upper floor and further, the Appellant/Claimant is seen and getting the survey conducted and her room & kitchen are also seen. Further, she is also seen holding a slate in her hand on which **"I-41 SOMMARI DEVI G+1"** is clearly seen to have been written.

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12. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the double storey Jhuggi No. I-41. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. I-41 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the same for residential purposes.

13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. I-41 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

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

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

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least

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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. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-81/21.G dated 01.07.2023.

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

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

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

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

18. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

19. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those

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12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

20. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

21. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

23. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

24. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

25. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

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FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

27. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

28. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

29. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various

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States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

30. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ

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

31. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

32. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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policy"), which has mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

35. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

37. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

38. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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

40. It is pointed out that we have already held that the double storey Jhuggi No. I-41 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

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

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

43. It is pointed out that the Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-B). The First Voter ID Card (Annexure-A) is bearing number LDR 1377795 and it has been issued on 17.12.2001, much prior to the cutoff date of 01.01.2015, but it is pointed out that this Voter ID Card has been issued on the address of Dist. Pratapgarh, Uttar Pradesh and not on the address of the Jhuggi No. I-41, Jailorwala Bagh,

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regarding which she is claiming allotment from DDA and accordingly, this document (Annexure-A) is not relevant to determine the eligibility of the Appellant/Claimant.

44. The Appellant/Claimant has tendered her second Voter ID Card No. WHC 3272846 and it has been issued on 09.06.2019, much after the cutoff date of 01.01.2015 and accordingly, the question of her name appearing in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. I-41 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

45. The Appellant/Claimant has also tendered the Voter ID Card No. WHC 3272838 (Annexure-E), Aadhar Card (Annexure-F) & PAN Card (Annexure-G) of her husband Sheetla Prasad as well as the Ration Card (Annexure-H) in support of her claim.

46. It is pointed out that the Voter ID Card No. WHC 3272838 (Annexure-E) of her husband Sheetla Prasad has been issued on 09.08.2019, much after the cutoff date of 01.01.2015 and accordingly, the question of his name arising in any of the Voter Lists of the years from 2012 to 2015 does not arise. The material placed on file shows that neither the Appellant/Claimant nor her husband Sheetla Prasad was having a valid Voter ID Card on the cutoff date 01.01.2015 issued on the address of the Jhuggi No. I-41, Jailorwala Bagh, regarding which the Appellant/Claimant is claiming allotment from DDA and further, their names also do not reflect in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Furthermore, the Ration Card (Annexure-H) is bearing No. 077005260685 and it has been issued in favour of the Appellant/Claimant and the name of her husband and all the four children is mentioned but it is pointed out that this Ration Card has been issued on 22.06.2020, much after the cutoff date of 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. I-41, Jailorwala Bagh, regarding which she is claiming allotment from DDA and further

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

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

48. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. I-41 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-H, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

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49. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-81/21.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

50. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.20232passed by Hon'ble High Court of Delhi in WP(C) No. 6728/20232and C.M. Appeal 25594/20232titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

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

Appeal No: 149 of 2024

Date of Institution: 17.07.2023

Date of Order: 10.07.2024

Present: Appellant/ Claimant Dharam Raj S/o Kharpattu

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-91/1, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-91/1 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has

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rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-76/26.1 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 149 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 13.06.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-Z, Annexure-Z1 and Annexure-Z2, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-91/1 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. A-91/1 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Dharam Raj has been recorded before us on 13.06.2024, wherein he has stated that his parents, Kharpattu & Jiyachi Devi, are having four sons, Pradip, Sarabdev, Dharam Raj & Dil Bahadur and two daughters, Yashodia & Sunaina. Kharpattu had expired in the year 2016. All the children are married. Yashodia is married

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with Inderjit and she is living in her matrimonial home in Devaria, Uttar Pradesh. Sunaina is married with Ranjit and she is living in her matrimonial home in Samaypur Badli, Delhi. Sarabdev is married with Shampa and having four children whereas Dil Bahadur is married with Chandani and having one child and both of them along with their respective families are living in Devaria, Uttar Pradesh. Pradip is married with Sanju and having four children. Dharam Raj (Appellant/Claimant) is married with Manju and having three children, Anisuya, Satyam & Shant.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. A-91/1 and it comprises of one room on the ground floor and two rooms on the first floor and further one of the rooms on the first floor is used as kitchen whereas the second is used for residential purposes and an iron ladder is also placed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that his brother Pradip along with his wife Sanju and all the four children is living on the ground floor of the Jhuggi No. A-91/1 and regarding that DDA has made allotment in favour of Sanju W/o Pradip. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Manju and all the three children, Anisuya, Satyam & Shant, is living on the first floor of the Jhuggi No. A-91/1. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. A-91/1 but his claim has been rejected by the Eligibility Determination Committee on the ground that he has claimed allotment against the upper floor in spite of the fact that admittedly he has claimed allotment from DDA against the first floor of the said Jhuggi No. A-91/1 and further he is having all the requisite document as per the policy guidelines issued by DDA and accordingly aggrieved by the same he has filed the present Appeal No. 149 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-Z, Annexure-Z1 and Annexure-Z2, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished survey records along with three video clips of Jhuggi No. A-91/1. As per survey records the survey was got conducted by Manju, who is the wife of the Appellant/Claimant, of Jhuggi No. A-91/1 on 22.11.2020 on the first floor of the said Jhuggi and her photograph & that of her son are also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of

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survey/videography Pradip, who is the brother of the Appellant/Claimant, was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

13. DDA has furnished the survey records along with three video clips of Jhuggi No. A-91/1. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 13.06.2024 wherein the Appellant/Claimant has stated that the first video clip pertains to the Jhuggi No. A-91/1 in which from outside the Jhuggi is clearly seen to be a double storey pucca structure and further, an iron ladder is also seen placed outside in the gali and used for going to the upper floor. The second video clip pertains to the ground floor of the Jhuggi No. A-91/1 in which his brother, Pradip S/o Kharpattu, is seen and getting the survey conducted on the behalf of his wife Sanju and further, the Jhuggi is seen to be a pucca structure and an iron ladder is also seen placed outside in the gali and used for going to the upper floor and further, the room & kitchen of Sanju W/o Pradip is seen and further, Pradip is also seen holding a slate in his hand on which **"A-91 SANJU DEVI G"** is seen to have been written. The third video clip pertains to the first floor of the Jhuggi No. A-91/1 in which his brother Pradip S/o Kharpattu is seen and getting the survey conducted ono the behalf of the Appellant/Claimant Dharam Raj and he is also heard stating that the Appellant/Claimant had gone to attend the marriage and further, the room/kitchen of the Appellant/Claimant is seen and further, Pradip is also seen holding a slate in his hand on which **"A-91 DHARAM RAJ FF"** is seen to have been written.

14. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case about the existence of the double storey Jhuggi No. A-91/1. Thus the statement of the Appellant/Claimant has duly proved that the double storey Jhuggi No. A-91/1 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and his brother, Pradip S/o Kharpattu, along with his wife Sanju & four children is living on the ground floor of the said double storey Jhuggi No. A-91/1and regarding that DDA has made allotment in favour of Sanju W/o Pradip whereas the Appellant/Claimant along with his wife Manju and all the three children, Anisuya, Satyam & Shant, is living on the first floor of the said double storey Jhuggi No. A-91/1 and is using the same for residential purposes.

15. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-91/1 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still living on the first floor of the said

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double storey Jhuggi No. A-91/1 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi.

16. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of the said double storey Jhuggi No. A-91/1 as per the policy guidelines issued by DDA.

17. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-Z, Annexure-Z1 and Annexure-Z2, in support of his claim and prayed that DDA be directed to make allotment against the first floor of the said double storey Jhuggi No. A-91/1 in his favour.

18. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-76/26.1 dated 01.07.2023.

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

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"Part-B

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

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

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

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

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

20. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

21. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

22. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of

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01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

23. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

25. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

26. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment

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against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

27. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

28. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development**

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Authority" in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

29. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

30. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

31. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used

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as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

32. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

33. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility

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criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

34. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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

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to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

39. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

40. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must 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 and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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

42. It is pointed out that we have already held that the double storey Jhuggi No. A-91/1 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still living on the first floor of the said double storey Jhuggi No. A-91/1 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the first floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

43. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor of the said double storey Jhuggi No. A-91/1 as per the policy guidelines issued by DDA.

44. The Appellant/Claimant has tendered his three Voter ID Cards (Annexure-A to Annexure-C), Aadhar Card (Annexure-D), PAN Card (Annexure-E), Letter F.No./AERO/AC-17/2024/189 dated 27.05.2024 (Annexure-Y) of AERO/AC-17, Wazirpur, Voter List of the year 2013 (Annexure-Z), Voter List of the year 2014 (Annexure-Z1) and Voter List of the year 2015 (Annexure-Z2) in support of his claim.

45. It is pointed out that the Appellant/Claimant has tendered his three Voter ID Cards (Annexure-A to Annexure-C) and all are bearing the same number i.e., WHC 1832202 and issued on the address of the Jhuggi No. A-91 whereas the Appellant/Claimant has been claiming allotment from DDA against the Jhuggi No. A-91/1. It is also pointed out that the Aadhar Card (Annexure-D) of the Appellant/Claimant has been issued on 18.06.2013, much prior to the cutoff date 01.01.2015 and this document has been issued on the address of the

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Jhuggi No. A-91/1 and in addition to the that Voter ID Card (Annexure-I) & Aadhar Card (Annexure-J) of his wife Manju, Aadhar Cards (Annexure-L to Annexure-N) of his children, Ansuiya, Satyam & Shant, the Birth Certificates (Annexure-O to Annexure-Q) of his children, Ansuiya, Satyam & Shant, the Passbook of Karnataka Bank (Annexure-T) & the School Certificate (Annexure-V). also have been issued on the address of the Jhuggi No. A-91/1. And accordingly, mentioning of address of Jhuggi No. A-91 in the Voter ID Cards (Annexure-A to Annexure-C) is ignored as it may be due to clerical mistake.

46. It is pointed out that the first Voter ID Card (Annexure-A) has been issued on 08.10.2012, much prior to the cutoff date 01.01.2015 whereas the second Voter ID Card (Annexure-B) has also been issued on 14.04.2014, much prior to the cutoff date 01.01.2015 and the third Voter ID Card (Annexure-C) has been issued on 18.09.2023. Furthermore, Letter F. No./AERO/AC-17/2024/189 dated 27.05.2024 (Annexure-Y) of AERO/AC-17, Wazirpur shows that Voter ID Card No. WHC 1832202 (Annexure-A) is a valid document as per the records of the Election Commission and further, it is also mentioned that his Voter ID Card No. WHC 1832202 (Annexure-A) has been reflected in the Voter Lists of the years from 2013 to 2015 but it is not reflected in the Voter List of 2012. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 1391 in the Vote List of the year (Annexure-Z), Voter at Sl. No. 17 in the List of the year 2014 (Annexure-Z1) and at Sl. No. 21 in the Voter List of the year 2015 (Annexure-Z2). Therefore, we have no hesitation in holding that the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and further his name also appears in the voter list of the year's 2013, 2014 and 2015.

47. The Appellant/Claimant has tendered the Application for Issuance of Ration Card (Annexure-W) and Report downloaded from Internet (Annexure-X) in support of his claim.

48. It is pointed out that the Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-91/1 regarding which he is claiming allotment from DDA. The Application for Issuance of Ration Card (Annexure-W) shows that Manju, who is the wife of the Appellant/Claimant, had applied for issuance of Ration Card but till now no Ration Card has been issued in her favour. Further, Report downloaded from Internet (Annexure-X) shows that she had applied for issuance of Ration Card on 12.03.2020, much after the cutoff date of 01.01.2015 and as per status it is shown to be pending as on 22.02.2022. The fact remains that the Appellant/Claimant was not having a separate Ration Card issued on the address of the first

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floor of the Jhuggi No. A-91/1, regarding which the Appellant/Claimant is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

49. The Appellant/Claimant has tendered the Identity Card (Annexure-F & Annexure-U) issued by Construction Worker Welfare Board (CWWB), the Electricity Bill (Annexure-G), the Passbook of Indian Overseas Bank (Annexure-H), Voter ID Card No. WHC 3672151 (Annexure-I), Aadhar Card (Annexure-J) & PAN Card (Annexure-K) of his wife Manju, the Aadhar Cards (Annexure-L to Annexure-N) of his children, Ansuiya, Satyam & Shant, the Birth Certificates (Annexure-O to Annexure-Q) of his children, Ansuiya, Satyam & Shant, the Cast Certificates (Annexure-R & Annexure-S) of his children, Satyam & Ansuiya, the Passbook of Karnataka Bank (Annexure-T) and the School Certificate (Annexure-V) of his son Satyam in support of his claim.

50. It is pointed out that the Identity Card (Annexure-F & Annexure-U) issued by Construction Worker Welfare Board (CWWB) have been issued in favour of the Appellant/Claimant and his wife on 05.01.2022 and 23.04.2022 respectively and both the documents have been issued much after the cutoff date 01.01.2015. The Voter ID Card No. WHC 3672151 (Annexure-I) of his wife Manju has been issued on 19.09.2023, much after the cutoff date 01.01.2015. However, her Aadhar Card (Annexure-J) has been issued on 08.08.2014. The Electricity Bill (Annexure-G) shows that the electricity connection has been taken by the Appellant/Claimant on 20.12.2021, much after the cutoff date 01.01.2015. The Passbook of Indian Overseas Bank (Annexure-H) shows that the Appellant/Claimant had opened the account on 27.08.2014 but it has been opened on the address of Jhuggi No. A-29, Ashok Vihar Phase-I, Near Satyawati College. The Passbook of Karnataka Bank (Annexure-T) shows that his wife Manju had opened the account but the date of opening of account is not mentioned in that document. Further, the Aadhar Cards (Annexure-L to Annexure-N) of his children, Ansuiya, Satyam & Shant as well as the Birth Certificates (Annexure-O to Annexure-Q) of his children, Ansuiya, Satyam & Shant and the School Certificate (Annexure-V) of his son Satyam, have been issued much after the cutoff date 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a separate

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Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. A/91/1 regarding which he has been claiming allotment from DDA, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

52. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. A-91/1, Jailorwala Bagh, regarding which he is claiming allotment from DDA in spite of the fact that he is claiming allotment from DDA against the upper floor, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-Z, Annexure-Z1 and Annexure-Z2, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

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53. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-76/26.1dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

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

Appeal No: 163 of 2024

Date of Institution: 17.07.2023

Date of Order: 10.07.2024

Present: Appellant/ Claimant Tara Devi W/o Rajesh D/o Ram Lakhan Ram

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. H-42, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. H-42 was found to exist but she had failed to submit requisite documents as

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per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-81/63.G-A dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 163 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 20.05.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-G, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. H-42 was found to exist but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. H-42 as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant Tara Devi has been recorded before us on 20.05.2024 wherein she has stated that her in-laws, Ram Lakhan & Subhawati Devi, are having three sons, Rajesh, Ramesh & Rakesh and two daughters, Poonam & Kiran. Ram Lakhan had expired about 25 years ago. Subhawati is living in her native village in district Gazipur, Uttar Pradesh. All the children are married. Poonam is married with Monu and she is living in her matrimonial home in Azamgarh, Uttar Pradesh. Kiran is married with Ravinder and she is living in her matrimonial home in Mumbai, Maharashtra. Ramesh is married with Saroj and having three children and they are living in their native village in district Gazipur, Uttar Pradesh. Rakesh is married with Neelam and having one daughter, Anshika. Rajesh is married with Tara Devi (Appellant/Claimant) and having three children, Sakshi, Sumit & Vineet.

9. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. H-42 and it comprises of one room on each floor and an iron ladder is placed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that her brother-in-law Rakesh along with his wife Neelam and daughter, Anshika is living on the first floor of the Jhuggi No. H-42 and regarding that Rakesh has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee but he has preferred not to file an appeal before the Appellate Authority. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that she along with her husband, Rajesh, and all the three children, Sakshi, Sumit & Vineet, is living on the ground floor of the Jhuggi No. H-42. The Appellant/Claimant has sought allotment from DDA against the ground floor of the Jhuggi No. H-42 but her claim has been rejected by the eligibility Determination Committee on the ground that she has been found to have claimed allotment against the upper floor and further her Voter ID Card could not be verified in spite of the fact that she has sought allotment from DDA against the ground floor of the Jhuggi No. H-42 and further she is having all the requisite documents as per the policy guidelines issued by DDA and accordingly, aggrieved by the same she has filed the present Appeal No. 163 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-G, in support of her claim and prayed that DDA be directed to make allotment in her favour.

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12. DDA has furnished survey records along with one video clip of Jhuggi No. H-42. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. H-42 on 21.03.2020 on the ground floor of the said Jhuggi and her photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

13. DDA has furnished survey record along with one video clip pertaining to the Jhuggi No. H-42. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 20.05.2024 wherein she has stated that the video clip pertains to the Jhuggi No. H-42 and from outside the said Jhuggi No. H-42 is clearly seen to be a double storey pucca Jhuggi and further, the Appellant/Claimant is seen and getting the survey conducted on the ground floor of the Jhuggi No. H-42 and her room & kitchen are seen and further, she is heard making a statement that her devar (brother-in-law) is living on the first floor of the Jhuggi No. H-42 and further, she is also seen holding a slate in her hand on which **"H-42 TARA DEVI G+1"** is clearly seen to have been written.

14. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case about the existence of the double storey Jhuggi No. H-42. Thus the statement of the Appellant/Claimant has duly proved that the double storey Jhuggi No. H-42 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and her brother-in-law, Rakesh, along with his family is living on the first floor of the Jhuggi No. H-42 and regarding that Rakesh has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee but he has preferred not to file an appeal before the Appellate Authority whereas the Appellant/Claimant along with her family is living on the ground floor of the said double storey Jhuggi No. H-42 and is using the same for residential purposes.

15. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. H-42 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still living on the ground floor of the said double storey Jhuggi No. H-42 and using the same for residential purposes and further the

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Appellant/Claimant has claimed alternative allotment from DDA against the ground floor of the said double storey Jhuggi.

16. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the ground floor of the said double storey Jhuggi No. H-42 as per the policy guidelines issued by DDA.

17. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-G, in support of her claim and prayed that DDA be directed to make allotment against the ground floor of the said double storey Jhuggi No. H-42 in her favour.

18. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-81/63.G-A dated 01.07.2023.

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

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"Part-B

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

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

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

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

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

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

20. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

21. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

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22. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

23. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

25. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

26. As already pointed out above different criterion has been provided in the DDA policy for

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the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

27. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

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FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

29. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

30. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

31. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise

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ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

32. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that

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

33. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

34. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

36. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench

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in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

37. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

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

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also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

40. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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

42. It is pointed out that we have already held that the double storey Jhuggi No. H-42 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the ground floor of the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

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

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44. The Appellant/Claimant has tendered her Voter ID Card No. WHC 2289387 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of her claim.

45. It is pointed out that the Voter ID Card No. WHC2289387 (Annexure-A) of the Appellant/Claimant has been issued on 20.04.2018, much after the cutoff date 01.01.2015 and accordingly, the question of her name appearing in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. H-42 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

46. The Appellant/Claimant has also tendered the Voter ID Card No. WHC 3660099 (Annexure-D) & Aadhar Card (Annexure-E) of her husband Rajesh, the Electricity Bill (Annexure-F) and the Passbook of Union Bank (Annexure-G) in support of her claim.

47. It is pointed out that the Voter ID Card No. WHC 3660099 (Annexure-D) of her husband Rajesh has been issued on 24.05.2023, much after the cutoff date 01.01.2015 and accordingly, the question of his name appearing in the Voter List of the years from 2012 to 2015 does not arise. Furthermore, neither the Appellant/Claimant nor her husband Rajesh was having a valid Voter ID Card on the cutoff date 01.01.2015 issued on the address of the Jhuggi NO. H-42 regarding which the Appellant/Claimant has been claiming allotment from DDA and further their names also do not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Furthermore, the Aadhar Card (Annexure-E) of her husband has been issued on 29.03.2016, much after the cutoff date 01.01.2015. Moreover, the Electricity Bill (Annexure-F) shows that her brother-in-law, Rakesh Kumar, had taken electricity connection on 05.03.2015, much after the cutoff date 01.01.2015 and further, it shows that the electricity connection has been taken by her brother-in-law Rakesh Kumar not by the Appellant/Claimant. The Passbook of Union Bank (Annexure-G) shows that the Appellant/Claimant has opened the account on 29.02.2020, much after the cutoff date 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not

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create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. H-42 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

49. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. H-42 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus

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the documents, Annexure-A to Annexure-G, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

50. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-81/63.G-A dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

51. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.20232passed by Hon'ble High Court of Delhi in WP(C) No. 6728/20232and C.M. Appeal 25594/20232titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

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

Appeal No: 168 of 2024

Date of Institution: 17.07.2023

Date of Order: 11.07.2024

Present: Appellant/ Claimant Joginder S/o Bhola Paswan

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-28, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-28 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has

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rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-15/44.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 168 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 10.05.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-O, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-28 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. A-28 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Joginder has been recorded before us on 10.05.2024 wherein he has stated that his parents, Bhola Saroj & Prema Devi, are having

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three sons, Joginder, Ajay & Mahinder and three daughters, Seema, Rima & Renu. All the children except Ajay & Renu are married. Seema is married with Ajit and she is living in her matrimonial home at Sitapur, Uttar Pradesh. Rima is married with Chandrika and she is living in her matrimonial home in Azamgarh, Uttar Pradesh. Mahender is married with Manisha. Joginder (Appellant/Claimant) is married with Purnima and having one son, Samarth.

9. The Appellant/Claimant has stated that his family is having three independent Jhuggis in Jailorwala Bagh, Ashok Vihar, which are bearing Jhuggi No. A-28, Jhuggi No. A-33 & Jhuggi No. A-57. All the three Jhuggis are double storey structure and all comprises of one room on each floor and an iron ladder is placed outside in the gali and it is used for going to the upper floor.

Jhuggi No. A-33

10. The Appellant/Claimant has stated that his parents, Bhola Saroj & Prema Devi, are living in the double storey Jhuggi No. A-33, Jailorwala Bagh, Ashok Vihar and regarding that DDA has made allotment in favour of his mother Prema Devi. These facts are not disputed by DDA.

Jhuggi No. A-57

11. The Appellant/Claimant has stated that his brother Mahinder along with his wife Manisha is living in the double storey Jhuggi No. A-57 and regarding that Mahinder has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the Appeal No. 138 of 2024 before the Appellate Authority for redressal. These facts are not disputed by DDA.

Jhuggi No. A-28

12. The Appellant/Claimant has stated that he along with his wife Purnima & son Samarth is living in the double storey Jhuggi No. A-28. The Appellant/Claimant has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee on the grounds that he has been found to have claimed allotment against the upper floor and further his Voter ID Card could not be verified in spite of the fact that he has claimed allotment against the double storey Jhuggi No. A-28 and further he is having all the requisite documents as per the the policy guidelines issued by DDA and accordingly aggrieved by the same he has filed the present Appeal No. 168 of 2024 before the Appellate Authority for

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redressal. The Appellant/Claimant has also tendered document Annexure-A to Annexure-O, in support of his claim and prayed that DDA be directed to make allotment in his favour.

13. It is pointed out that both the appeals bearing Appeal No. 138 of 2024 and Appeal No. 168 of 2024 shall be decided independently on their individual merits.

14. DDA has furnished survey records along with two video clips of Jhuggi No. A-28. As per survey records the survey was got conducted by Purnima, who is wife of the Appellant/Claimant, of Jhuggi No. A-28 on 17.03.2020 on the ground floor of the said Jhuggi and her photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography Renu, who is the sister of the Appellant/Claimant, was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

15. DDA has furnished the survey records along with four video clips pertaining to Jhuggi No. A-28, Jhuggi No. A-33 and Jhuggi No. A-57. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 10.05.2024 wherein the Appellant/Claimant has stated the first video clip pertains to the Jhuggi No. A-33 of his parents, Bhola Saroj & Prema Devi, in which his mother Prema Devi is seen and further from outside the said Jhuggi No. A-33 is clearly seen to be a double storey structure and her room & kitchen on the ground floor is seen and further she is also seen holding a slate in her hand on which **"A-33 PREMA DEVI GF"** is seen to have been written. The second video clip pertains to Jhuggi No. A-57 of Mahinder in which his wife Manisha is seen and from outside the said Jhuggi No. A-57 is seen to be a double storey structure and an iron ladder is also seen going from ground floor to the upper floor and further Manisha is seen and getting the survey conducted and her room & kitchen on the ground floor is seen and she is also heard stating that both the floors are occupied by them and further she is also seen holding a slate in her hand on which **"A-57 MAHENDER G+1"** is seen to have been written. The third & fourth video clips pertain to the Jhuggi No. A-28 of Joginder in which his sister Renu is seen and getting the survey conducted on behalf of Joginder and she is heard thereby stating that both the floors belong to her brother Joginder and further the room & kitchen of Joginder on the ground floor is seen and one room on the first floor is also seen and further Renu is seen holding a slate in her hand on which **"A-28 JOGINDER GF"** is clearly seen to have

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written.

16. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clips, about the existence of the double storey Jhuggi No. A-28. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. A-28 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the same for residential purposes.

17. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-28 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

18. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi No. A-28 as per the policy guidelines issued by DDA.

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

20. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cutoff

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date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-15/44.G dated 01.07.2023.

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

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

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which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.

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

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

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

22. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

23. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before

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01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

24. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

25. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

27. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

28. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

29. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor

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while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

31. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

32. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by

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way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

33. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

34. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy

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

35. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

36. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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

39. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

41. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

42. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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

44. It is pointed out that we have already held that the double storey Jhuggi No. A-28 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

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

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01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi No. A-28 as per the policy guidelines issued by DDA.

46. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), PAN Card (Annexure-D), Letter AERO/AC-17/2024/147 dated 13.04.2024 (Annexure-E) of AERO, AC-17, Wazirpur, Voter List of the year 2017 (Annexure-F), Voter List of the year 2018 (Annexure-G), Voter List of the year 2019 (Annexure-H) and Voter List of the year 2020 (Annexure-I) in support of his claim.

47. It is pointed out that the Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B). The first Voter ID Card (Annexure-A) is bearing number WHC 0200136 and it has been issued on 01.05.2013 and the second Voter ID Card (Annexure-B) is bearing number WHC 2200772 and it has been issued on 06.04.2017. However, at the very outset it is pointed out that the Appellant/Claimant has failed to explain the reason for having got two Voter ID Cards issued in his favour from the Election Commission.

48. It is pointed out that the Voter ID Card (Annexure-A) is bearing number WHC 0200136 and it has been issued on 01.05.2013, much prior to the cutoff date 01.01.2015. However, it is pertinent to point out that in the Letter AERO/AC-17/2024/147 dated 13.04.2024 (Annexure-E) of AERO, AC-17, Wazirpur it has been categorically mentioned that this Voter ID Card No. WHC 0200136 (Annexure-A) could not be verified from the records of Election Commission and this shows that this is a forged and fabricated document and accordingly the material placed on file shows that the Appellant/Claimant has forged and fabricated documents in order to grab allotment from DDA by hook or crook.

49. It is also pointed out that the second Voter ID Card (Annexure-B) is bearing number WHC 2200772 and it has been issued on 06.04.2017, much after the cutoff date 01.01.2015. Furthermore, it is pertinent to point out that in the Letter AERO/AC-17/2024/147 dated 13.04.2024 (Annexure-E) of AERO, AC-17, Wazirpur it has been categorically mentioned that this Voter ID Card No. WHC 2200772 (Annexure-B) is a valid document as per the records of Election Commission and this Voter ID Card is reflected in the Voter List of the years 2017 to 2020. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 149 in the Voter List of the year 2017 (Annexure-F), at Sl. No. 133 in the Voter List of the year 2018 (Annexure-G), at Sl. No. 132 in the Voter List of the year 2019 (Annexure-H) and at Sl. No. 138 in the Voter List of the year 2020 (Annexure-I). In all these Voter Lists, (Annexure-F to Annexure-I)

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the number of the Voter ID Card of the Appellant/Claimant is mentioned to be WHC 2200772 (Annexure-B). This shows that the Voter ID Card No. WHC 2200772 (Annexure-B) as well as the Voter Lists (Annexure-F to Annexure-I) are not material to determine the eligibility of the Appellant/Claimant as it pertains to post cutoff date 01.01.2015. Further, the fact remains that as per our discussion above the Voter ID Card No. WHC 0200136 (Annexure-A) could not be verified from the records of Election Commission and this shows that this is a forged and fabricated document. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. A-28, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further, his name also does not appear in the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant is not entitled for claiming alternative allotment from DDA.

50. The Appellant/Claimant has tendered Voter ID Card No. WHC 2291540 (Annexure-J), Aadhar Card (Annexure-K) & PAN Card (Annexure-L) of his wife Purnima, the Electricity Bill (Annexure-M), SC Certificate (Annexure-N) and the Passbook of PNB (Annexure-O) in support of his claim.

51. It is pointed out that the Voter ID Card No. WHC 2291540 (Annexure-J) of his wife Purnima has been issued on 11.06.2018, much after to the cutoff date 01.01.2015 and accordingly the question of her name appearing in the Voter List in the years from 2012 to 2015 does not arise. Furthermore, neither the Appellant/Claimant nor his wife Purnima was having a valid Voter ID Card on the cutoff date 01.01.2015 issued on the address of Jhuggi No. A-28 regarding which the Appellant/Claimant has been claiming allotment from DDA and further their names also do not appear in the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The Electricity Bill (Annexure-M) shows that the Appellant/Claimant had taken electricity connection on 16.12.2016, much after the cutoff date 01.01.2015. SC Certificate (Annexure-N) of the Appellant/Claimant has been issued on 04.03.2016, much after the cutoff date 01.01.2015 and that too on the address of his parents bearing Jhuggi No. A-33 and accordingly this document is not relevant. The Passbook of PNB (Annexure-O) shows that the Appellant/Claimant had opened the account 11.05.2010. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his

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favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. A-28, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

53. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. A-28, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-O, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her eligible to seek

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allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

54. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-15/44.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

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

Appeal No: 138 of 2024 and 165 of 2024

Date of Institution: 17.07.2023

Date of Order: 11.07.2024

Present: Appellant/ Claimant Mahinder Saroj S/o Bhola Saroj

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

ORDER

1. The present Appellant/ Claimant has sought allotment from DDA against the double storey Jhuggi bearing No. A-57, Jailorwala Bagh, Ashok Vihar but the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-18/001.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appellant/ Claimant has filed appeal along with its spare copy on 17.07.2023 against the impugned order. But inadvertently the DDA staff after scrutiny of the documents had registered the original as well as its copy as two separate appeals bearing Appeal No. 138 of 2024 and Appeal No. 165 of 2024 and in due course had sent the same to this Appellate Authority for disposal. Vide order dated 15.04.2024 both the above referred appeals were consolidated with the direction that Appeal No. 138 of 2024 shall be treated as the main appeal and the file of Appeal No. 165 of 2024 be tagged with the file of Appeal No. 138 of 2024 to conduct further proceedings in the main case file. Hence, vide this common order we dispose off both the appeals bearing Appeal No. 138 of 2024 & 165 of 2024 filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-57, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi

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dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-57 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, Jailorwala Bagh, duly communicated its order bearing No. 350-18/001.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the Appeal No. 138 of 2024/165 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 10.05.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-S, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey. In view of the letter bearing U.O. NO. F2(ISR)/AA/PMAY/37 dated 03.06.2024, whereby the observations made by Principal Commissioner (Housing) and worthy Vice Chairman, DDA have been annexed, the representatives of PMAY-ISR Department of DDA has also examined Sh. Radhe Shyam Meena, Dy. Director and Sh. Dilshad Ahemad, Assistant Director, and their joint statement has also been recorded before us on 05.07.2024.

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

6. It is the admitted fact that as per survey records, the Appellant / Claimant's Jhuggi bearing No. A-57 was found to exist but he had failed to submit required documents as on

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01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Second documents: JJ dwellers fail to submit one of the 12 documents issued before 01.01.2015 as prescribed"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the Jhuggi No. A-57 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Mahinder has been recorded before us on 10.05.2024 wherein he has stated that his parents, Bhola Saroj & Prema Devi, are having three sons, Joginder, Ajay & Mahinder and three daughters, Seema, Rima & Renu. All the children except Ajay & Renu are married. Seema is married with Ajit and she is living in her matrimonial home at Sitapur, Uttar Pradesh. Rima is married with Chandrika and she is living in her matrimonial home in Azamgarh, Uttar Pradesh. Joginder is married with Purnima and having one son, Samarth. Mahinder (Appellant/Claimant) is married with Manisha.

9. The Appellant/Claimant has stated that his family is having three independent Jhuggis in Jailorwala Bagh, Ashok Vihar, which are bearing Jhuggi No. A-28, Jhuggi No. A-33 & Jhuggi No. A-57 and they are situated at some distance from each other and are separate dwelling units. All the three Jhuggies are double storey structure and further all three Jhuggis comprises of one room on each floor and in all three Jhuggis an iron ladder is placed outside in the gali and it is used for going to the upper floor.

Jhuggi No. A-33

10. The Appellant/Claimant has stated that his parents, Bhola Saroj & Prema Devi, are living in

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the double storey Jhuggi No. A-33, Jailorwala Bagh, Ashok Vihar and regarding that DDA has made allotment in favour of his mother Prema Devi. These facts are not disputed by DDA.

Jhuggi No. A-28

11. The Appellant/Claimant has stated that his brother Joginder along with his wife Purnima & son Samarth is living in the double storey Jhuggi No. A-28 and regarding that Joginder has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the Appeal No. 168 of 2024 before the Appellate Authority for redressal. These facts are not disputed by DDA.

Jhuggi No. A-57

12. The Appellant/Claimant has stated that he along with his wife Manisha is living in the double storey Jhuggi No. A-57. The Appellant/Claimant has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee on the ground that he has failed to submit "any one" out of the 12 documents issued before 01.01.2015 as per the policy guidelines issued by DDA in spite of the fact that he has claimed allotment against the double storey Jhuggi No. A-57 and further he is having all the requisite documents as per the the policy guidelines issued by DDA and accordingly aggrieved by the same he has filed the Appeal No. 138 of 2024/ 165 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered document Annexure-A to Annexure-S, in support of his claim and prayed that DDA be directed to make allotment in his favour.

13. It is pointed out that DDA has also examined Radhey Shyam Meena, Dy. Director and Dilshad Ahemad, Assistant Director, and their joint statement has also been recorded before us on 05.07.2024 wherein they have stated that the family of the Appellant/Claimant is having three separate Jhuggis in Jailorwala Bagh, Ashok Vihar bearing numbers, A-28, A-33 and A-57. DDA has made allotment in favour of Bhola Saroj, who is the father of the present Appellant/Claimant, against the Jhuggi No. A-33, Jailorwala Bagh whereas the claim of Joginder, who is the brother of the present Appellant/Claimant, against the Jhuggi No. A-28 has been rejected by Eligibility Determination Committee and aggrieved by the same Joginder has filed the Appeal No. 168 of 2024 before the Appellate Authority for redressal and the appeal is still pending.

14. Radhey Shyam Meena, Dy. Director and Dilshad Ahemad, Assistant Director, have also stated

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that the Appellant/Claimant Mahender Saroj has also sought alternative allotment form DDA against the double storey Jhuggi No. A-57, Jailorwala Bagh, Ashok Vihar but his claim for alternative allotment was rejected by Eligibility Determination Committee on the sole ground that he had failed to submit the second document in support of his claim because as per DDA policy, the JJ Dweller must possess "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and accordingly the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-18/001.G dated 01.07.2023 to the present Appellant/ Claimant whereby the reasons for rejection is mentioned to be **"Second documents: JJ dwellers fail to submit one of the 12 documents issued before 01.01.2015 as prescribed"**. Aggrieved by the same, the Appeal No. 138 of 2024/165 of 2024 has been filed by the present Appellant/ Claimant.

15. It is pointed out that the appeals bearing Appeal No. 138 of 2024/165 of 2014 and Appeal No. 168 of 2024 shall be decided independently on their individual merits.

16. DDA has furnished survey records along with one video clip of Jhuggi No. A-57. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. A-57 on 18.03.2020 on the ground floor of the said Jhuggi and his photograph & that of his wife are also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducting of survey/videography Manisha, who is the wife of the Appellant/Claimant, was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

17. DDA has furnished the survey records along with four video clips pertaining to Jhuggi No. A-28, Jhuggi No. A-33 and Jhuggi No. A-57. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 10.05.2024 wherein the Appellant/Claimant has stated that qthe first video clip pertains to the Jhuggi No. A-33 of his parents, Bhola Saroj & Prema Devi, in which his mother Prema Devi is seen and further from outside the said Jhuggi No. A-33 is clearly seen to be a double storey structure and her room & kitchen on the ground floor is seen and further she is also seen holding a slate in her hand on which **"A-33 PREMA DEVI GF"** is seen to have been written. The second video clip pertains to Jhuggi No. A-57 of Mahinder (present Appellant/Claimant) in which his wife Manisha is seen and from outside the said Jhuggi No. A-57 is seen to be a double storey

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structure and an iron ladder is also seen going from ground floor to the upper floor and further Manisha is seen and getting the survey conducted and her room & kitchen on the ground floor is seen and she is also heard stating that both the floors are occupied by them and further she is also seen holding a slate in her hand on which **"A-57 MAHENDER G+1"** is seen to have been written. The third & fourth video clips pertain to the Jhuggi No. A-28 of Joginder in which his sister Renu is seen and getting the survey conducted on the behalf of Joginder and she is heard thereby stating that both the floors belong to her brother Joginder and further the room & kitchen of Joginder on the ground floor is seen and one room on the first floor is also seen and further Renu is seen holding a slate in her hand on which **"A-28 JOGINDER GF"** is clearly seen to have written.

18. Radhey Shyam Meena, Dy. Director and Dilshad Ahemad, Assistant Director, have also admitted the correctness & genuineness of the four video clips pertaining to Jhuggi No. A-28, Jhuggi No. A-33 and Jhuggi No. A-57, which were prepared by the survey team of DDA and they have corroborated the statement of the Appellant/Claimant with regard to the existence of three separate double storey Jhuggis bearing number A-28, A-33 and A-57 and also with regard to Bhola Saroj & Prema Devi, having found to be living separately & independently in Jhuggi No. A-33 and Joginder along with his family having found to be living separately & independently in Jhuggi No. A-28 and the present Appellant/Claimant along with his family having found to be living separately & independently in Jhuggi No. A-57.

19. The surveys records along with the video clips placed on file corroborates the statement of the Appellant/Claimant that his family is having three independent double storey Jhuggis in Jailorwala Bagh, Ashok Vihar, which are bearing Jhuggi No. A-28, Jhuggi No. A-33 & Jhuggi No. A-57 and they are situated at some distance from each other and are separate dwelling units. Further, the material placed on file shows that in the first double storey Jhuggi No. A-33, Jailorwala Bagh, Ashok Vihar his parents, Bhola Saroj & Prema Devi, are living separately & independently and regarding that DDA has made allotment in favour of his mother Prema Devi. Whereas in the second double storey Jhuggi No. A-28 his brother Joginder along with his family is living separately & independently and regarding that Joginder has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the Appeal No. 168 of 2024 before the Appellate Authority for redressal and that appeal is still pending before us. Further, the material placed on file also shows that in the third double storey Jhuggi No. A-57 the

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Appellant/Claimant along with his family is living separately & independently and regarding that the Appellant/Claimant has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 138 of 2024/165 of 2024 before the Appellate Authority for redressal.

REJECTION OF REPRESENTATION BY EDC VIDE ORDER DATED 14.01.2023

20. Now we shall appraise the material placed on file to show as to how the EDC had proceeded to deal with the claim and more particularly as to whether it was swayed by irrelevant matter or it has determined the claim of the Appellant/ Claimant fairly & independently.

21. It is not disputed that the claim of the Appellant/ Claimant was placed before the Eligibility Determination Committee (hereinafter called EDC). It is pertinent to point out that the claim of the Appellant/ Claimant was rejected by EDC on 14.01.2023 and the Nodal Officer, Kathputli Colony, duly communicated its order bearing No. 350-18/001.G dated 01.07.2023 to the present Appellant/Claimant and the Note of the EDC dated 14.01.2023 (Annexure-S) is reproduced for better understanding of the facts and the grounds on which the claim of the present Appellant/ Claimant was rejected, as under: -

EDC Note dated 14.01.2023 (Annexure-S)

"1. While examining the present case for determination of eligibility, it was observed that there was some deficiency in the requisite documents as per policy guidelines. In this regard, a Public Notice was issued on 14.05.2022 for organized a camp from 01.06.2022 to 15.06.2022 at DDA site office Jailor wala site office, Ashok Vihar, Delhi-52. wherein to the applicant/ claimant to give him/her an opportunity for submission of required documents. The applicant failed to submit requisite documents in spite of opportunity. As per survey record, the applicant jhuggi existed on Ground and the policy guidelines for alternate allotment in cases of Ground is as under:

2. As per policy guidelines, Part –B (clause –VI) The eligibility criteria for allotment of alternative dwelling units for rehabilitation and relocation of JJ dwellers would be as under - JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para. The applicant fails to submit a second document in support of his claim.

3. The applicant/ claimant has failed to submit a second document in support of his

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claim Hence; the applicant/claimant does not fulfill the eligibility criteria. The applicant/ claimant is found ineligible for alternative allotment."

22. The survey records placed on file shows that the Jhuggi No. A-57 of the Appellant/ Claimant was found to exist but his claim was rejected by EDC on 14.01.2023 on the sole ground that he was not having second document as he had allegedly failed to submit "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

23. The bare perusal of the Note dated 14.01.2023 (Annexure-S) also shows that it is no where disputed by DDA as far as the existence of the Jhuggi No. A-57 of the Appellant/ Claimant and the Appellant/ Claimant along with his family living there separately & independently and using it for residential purposes is concerned but his claim was rejected on the sole ground that he was not having second document as he had allegedly failed to submit "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. The fact as to whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 shall be discussed in detail by us in the later part of this order. Thus the fact remains that as per the stand of DDA the Appellant/ Claimant was having a separate dwelling unit bearing Jhuggi No. A-57 and he was having all the requisite documents except the second document, i.e., "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

24. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the double storey Jhuggi No. A-57. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. A-57 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the same for residential purposes.

25. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-57 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

26. Now we shall first appraise the material placed on file to determine the eligibility of

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Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the double storey Jhuggi No. A-57 as per the policy guidelines issued by DDA.

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

28. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further the Appellant/ Claimant was not having any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-18/001.G dated 01.07.2023.

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

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"Part-B

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

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

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

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

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

30. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

31. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

32. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of

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01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

33. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

35. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

36. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before

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01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

37. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

38. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court

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of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

39. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

40. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

41. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a

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ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

42. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

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43. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

44. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

47. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

49. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

50. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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

52. It is pointed out that we have already held that the double storey Jhuggi No. A-57 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

53. It is also pointed out that we have already held that the survey records placed on file shows that the Jhuggi No. A-57 of the Appellant/ Claimant was found to exist but his claim was rejected by EDC on 14.01.2023 on the sole ground that he was not having second document as he had allegedly failed to submit any "any one" of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Further, it has also been pointed out that the bare perusal of the Note dated 14.01.2023 (Annexure-S) also shows that it is no where disputed by DDA as far as the existence of the Jhuggi No. A-57 of the Appellant/ Claimant and the Appellant/ Claimant along with his family living there separately & independently and using it for residential purposes is concerned but his claim was rejected on the sole ground that he was not having second document as he had allegedly failed to submit "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. The fact as to whether the Appellant/ Claimant was having "any

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one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 shall now be discussed in detail by us.

54. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the double storey Jhuggi No. A-57 as per the policy guidelines issued by DDA.

55. The Appellant/Claimant has tendered his Voter ID Card No. WHC 2028702 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Letter F. No./AERO/AC-17/2024/146 dated 13.04.2024 (Annexure-H) of AERO, AC-17, Wazirpur, Voter List of the year 2015 (Annexure-I), Voter List of the year 2016 (Annexure-J), Voter List of the year 2017 (Annexure-K), Voter List of the year 2018 (Annexure-L), Voter List of the year 2019 (Annexure-M), Voter List of the year 2020 (Annexure-N) and Voter List of the year 2022 (Annexure-O) in support of his claim.

56. It has been pointed out that the Voter ID Card No. WHC 2028702 (Annexure-A) of the Appellant/Claimant has been issued on 21.03.2014, much prior to the cutoff date 01.01.2015. The Appellant/Claimant has also tendered his Aadhar Card No. 5498 5715 8107 (Annexure-B) and it has been issued on 16.03.2012, much prior to the cutoff date 01.01.2015. Furthermore, vide Letter F. No./AERO/AC-17/2024/146 dated 13.04.2024 (Annexure-H) of AERO, AC-17, Wazirpur, it has been verified that Voter ID Card No. WHC 2028702 (Annexure-A) of the Appellant/Claimant is a valid document as per the records of the Election Commission and further this Voter ID Card does not exist in the Voter List of 2014 but it is very much reflected in the Voter Lists of the years from 2015 to 2022.

57. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 216 in the Voter List of the year 2015 (Annexure-I), at Sl. No. 230 in the Voter List of the year 2016 (Annexure-J), at Sl. 238 in the Voter List of the year 2017 (Annexure-K), at Sl. No. 243 in the Voter List of the year 2018 (Annexure-L), at Sl. No. 247 in the Voter List of the year 2019 (Annexure-M), at Sl. No. 257 in the Voter List of the year 2020 (Annexure-N) and at Sl. No. 274 in the Voter List

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of the year 2022 (Annexure-O). Thus the material placed on file shows that the Appellant/Claimant was having a Aadhar Card No. 5498 5715 8107 (Annexure-B) as well as a valid Voter ID Card No. WHC 2028702 (Annexure-A) on the cutoff date 01.01.2015 and further his Voter ID Card No. WHC 2028702 (Annexure-A) has been very much reflected in the Voter Lists of the years from 2015 to 2022.

58. It is also pertinent to point out that Radhey Shyam Meena, Dy. Director and Dilshad Ahemad, Assistant Director, have also stated that the Appellant/Claimant has tendered documents, Annexure-A to Annexure-S, in support of his claim. The Voter ID Card No. WHC 2028702 (Annexure-A) has been issued on 21.03.2014 whereas his Aadhar Card No. 5498 5715 8107 (Annexure-B) has been issued on 16.03.2012 and both the documents have been issued on the address of the Jhuggi No. A-57, regarding which he is claiming allotment from DDA. Furthermore, the Letter dated 13.04.2024 (Annexure-H) issued by AERO, AC-17, Wazirpur also verifies the correctness & genuineness of the Voter ID Card No. WHC 2028702 (Annexure-A) of the Appellant/Claimant and this Voter Card is reflected in the Voter Lists of the years from 2015 to 2022. Further, his name also appears at Sl. No. 216 in the Voter List of the year 2015 (Annexure-I), at Sl. No. 230 in the Voter List of the year 2016 (Annexure-J), at Sl. 238 in the Voter List of the year 2017 (Annexure-K), at Sl. No. 243 in the Voter List of the year 2018 (Annexure-L), at Sl. No. 247 in the Voter List of the year 2019 (Annexure-M), at Sl. No. 257 in the Voter List of the year 2020 (Annexure-N) and at Sl. No. 274 in the Voter List of the year 2022 (Annexure-O).

59. It is pointed out that in all the Voter List from, Annexure-I to Annexure-O, the number of the Voter ID Card of the Appellant/Claimant is mentioned to be WHC 2028702 (Annexure-A) and further, in all the above mentioned documents, namely, Voter ID Card No. WHC 2028702 (Annexure-A), Aadhar Card No. 5498 5715 8107 (Annexure-B) and Voter Lists (Annexure-I to Annexure-O), the address of the Appellant/Claimant is mentioned to be Jhuggi No. A-57 regarding which the Appellant/Claimant has been claiming allotment from DDA. Therefore, the material placed on file shows that the Appellant/Claimant was having Aadhar Card (Annexure-B) and also a valid Voter ID Card (Annexure-A) on the cutoff date of 01.01.2015 and further his name also appears in the voter list of the year's 2015 (Annexure-I) as well as continuously in the Voter Lists from the years 2016 to 2022 (Annexure-J to Annexure-O) but his name does not feature in the voter list of the year's 2012, 2013 & 2014.

60. Now the moot question is whether the claim of the Appellant/Claimant is liable to be

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rejected solely because his name does not appear in the voter list of the year's 2012, 2013 and 2014 even though he was having a valid Voter ID Card (Annexure-A) & Aadhar Card (Annexure-B) on the cutoff date of 01.01.2015 and further his name also appears in the voter list of the year's 2015 (Annexure-I) as well as continuously in the Voter Lists from the years 2016 to 2022 (Annexure-J to Annexure-O).

61. On this aspect it is pointed out that Voter Lists are not revised every year but under Section 21 of the Representation of the People Act, 1951 it is revised

(i) before each general election to the House of People or

(ii) to the Assembly of a State or

(iii) before bye-election or

(iv) in any year if such revision has been directed by the Election Commission.

62. It is pointed out that the Voter ID card is issued when any citizen attains the age of 18 years. Therefore, if a dweller attains 18 years of age in the month of March 2013 and he/she obtains the Voter ID Card before the cutoff date of 01.01.2015 then he/she cannot be disallowed alternative allotment simply because his/her name does not appear in the voter list of the year's 2012, 2013 & 2014 because the question of his/her name appearing in the Voter lists of the year 2012, 2013 & 2014 does not arise as the Voter ID card has been issued very late, i.e., on 21.03.2014 in this case but prior to the cutoff date of 01.01.2015. Therefore, this narrow technical approach will make the possession of Voter ID Card on the cutoff date of 01.01.2015 a mere formality with no right attached to it thereby resulting into miscarriage of justice because the claim of eligible dwellers would be thrown on the ground that they do not possess the Voter list of the years 2012 to 2014 even though they possess all the relevant documents to show that they have been continuing living in the Jhuggi since long and more specifically on the cutoff date of 01.01.2015 and further their name appears in the voter list of the year's 2015 as well as continuously in the Voter Lists from the years 2016 to 2022. The correct interpretation of the policy guidelines issued by DDA by taking holistic & realistic view to determine the eligibility our endeavor should be to find out whether there are other cogent & material supporting documents to show that the dweller was in actual physical possession of the Jhuggi regarding which he is claiming allotment from DDA on the cutoff date of 01.01.2015 as well as in the years from 2012 to 2015.

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63. It is pertinent to point out that the DUSIB policy has been adopted by DDA. The legal question as to whether the claim of JJ dweller is liable to be rejected solely because his name does not appear in Electoral Rolls of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey even though he was having a valid Voter ID Card on the cutoff date of 01.01.2015 and also in spite of the fact that he also possess other documents to corroborate his residence and existence in the concerned Jhuggi Jhopri basti was the matter directly involved in the matter before Hon'ble High Court of Delhi relating to the DUSIB policy, which had been adopted by DDA, and it has been dealt in the judgment of **Udal v. Delhi Urban Shelter Improvement Board and Ors[2] 2017 SCC OnLine Del 9715.**

64. It is pointed out that in Udal's case (supra) the Hon'ble High Court of Delhi has found that the petitioners have produced the documents, including the National Food Security Card, Ration Card, Gas/Oil Bill, Electricity Bill, BSES Meter Change Report, School Leaving Certificates, School Progress Report of Children, Report Card of Children, Aadhar Cards, Driving Licences, Passbooks, PAN Card, Death Certificate of the Spouse of one of the parties, LIC Policy but they could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy. The Hon'ble High court held as under: -

> *"33. .....Therefore, even though these petitioners could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy, however, if an holistic view is undertaken of the documentation as produced, it would amply establish the residence and existence of these persons at the Rajiv Camp for the periods from 1998 till 2016."*
>
> *"38. Mr. Parvinder Chauhan, ld. Standing Counsel for respondent no.1 has staunchly contended that the requirement of Clause 1(iii) of Part-B of R& R Policy to the effect that the name of the person must feature in the electoral roll for any of the prescribed five years, is mandatory and the failure for the name to appear in such electoral roll must be fatal so far as consideration for allotment of alternative flat for rehabilitation under the R&R Policy is concerned. In the given facts and circumstances, we are unfortunately unable to agree with this submission. The records placed by these persons include National Food Security Cards, Ration Cards, Oil/Gas Bill, SC/ST Certificates, Electricity Bill, LIC Policies, Gas Connection Records and Bills, Driving Licences, Passbooks, Birth Certificate of Children as well as records of School*

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Admission of Children, their Progress Report Cards, all of which show their continued existence on the spot. A realistic view has to be taken in this regard. We find that the persons who were found ineligible were in possession of public identification including Voter ID - cards. The failure of the names of such persons to feature in the electoral roll could be for any number of reasons. The same could happen, if the person was not at home at the time the Booth Level Officer visited Jhuggi of the person concerned. This could be on account of the occupation of the person or for the person and adults of the family having left the Jhuggi for work. Obviously, the Booth Level Officer or any persons conducting the survey would not have met the adult members of the family. There would thus not be any adult members of the family to give the information for names to be included in the electoral rolls."

"40. We find that as per Clause 2 of PART - B of the R&R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents. In the above cases, the Jhuggi Jhopri dwellers have produced multiple records ranging to periods in the late 1990s till date. In this view of the matter, the persons detailed in paras 37 and 38 above are clearly entitled to the benefit of the policy. We are of the view that the ineligibility letter dated 22nd December, 2016 by the respondents have been issued to these persons because of a disjoint reading of Clause 1(iii) and Clause 2 of PART - B of the policy. The same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1(iii) and Clause 2 of Part-B of the R&R Policy, 2015."

65. Therefore, the present appeal is squarely covered by the facts of Udal's case (supra) decided by the Hon'ble High Court of Delhi wherein it has been held that as per Clause 2 of PART-B of the R & R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents and we cannot give a disjoint reading of Clause 1 (iii) and Clause 2 of PART – B of the policy but the same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1 (iii) and Clause 2 of PART-B of the R & R Policy, 2015.

66. On this aspect it is pertinent to point out that when the Jhuggi of the Appellant/Claimant is found to exist on the cutoff date of 01.01.2015 and he is also found to be having a Aadhar

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Card and also a valid Voter ID Card on the cutoff date of 01.01.2015 and also he possesses "any one" document out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 then his claim can not be rejected by taking hyper technical view merely because his name does not appear in the voter list of the year's 2012, 2013 and 2014 especially when he was having a valid Voter ID Card dated 21.03.2014 (Annexure-A) & Aadhar Card No. 5498 5715 8107 dated 16.03.2012 (Annexure-B) on the cutoff date of 01.01.2015 and further his name also appears in the voter list of the year 2015 (Annexure-I) as well as continuously in the Voter Lists from the years 2016 to 2022 (Annexure-J to Annexure-O) and he as well his family are having documents to show that they have been living in the said Jhuggi much prior to the cutoff date of 01.01.2015.

67. There is no dispute that the Appellant/Claimant is having a valid Voter ID Card dated 21.03.2014 (Annexure-A) & Aadhar Card No. 5498 5715 8107 dated 16.03.2012 (Annexure-B), which have been issued much prior to the cutoff date of 01.01.2015. Since the Voter ID Card (Annexure-A) has been issued on 21.03.2014 the question of his name appearing in the Voter List of the years 2012 & 2013 does not arise. Further, the Appellant/Claimant has not tendered the Voter List of the year 2014 as the records is not available with the Election Commission pertaining to the yearly/Annually details for the years of 2014 relating to the Voter ID Card No. WHC 2028702 dated 21.03.2014 (Annexure-A) of the present Appellant/Claimant thereby showing that the Election Commission is not having the Voter List of the years 2014 but it is having the Voter List of the year 2015 and onward up to 2022. These facts are corroborated by Letter F. No./AERO/AC-17/2024/146 dated 13.04.2024 (Annexure-H) of AERO, AC-17, Wazirpur. Therefore, the reasons for not tendering the Voter List of the year 2012, 2013 & 2014 is well explained in the present case. Thus the Appellant/Claimant cannot be penalized for not having Voter List of the years 2012, 2013 & 2014 when it was not prepared/ available with the Election Commission.

68. Now we shall appraise the material placed on file to determine as to whether there are documents placed on file to shows that the Appellant/Claimant along with his family was living in Jhuggi No. A-57 since long and more particularly on the cutoff date of 01.01.2015 and whether the family members of the Appellant/Claimant have got the documents issued in their favour prior to the cutoff date of 01.01.2015 to lent support to the claim put forward by the Appellant/Claimant.

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69. The Appellant/Claimant has tendered Voter ID Card No. WHC 3632254 (Annexure-D), Aadhar Card (Annexure-E) of his wife Manisha, the Passbook of PNB (Annexure-F), Dues Intimation Letter (Annexure-G) by TATA power-DDL, SC Certificate (Annexure-P), Application for issuance of Ration Card (Annexure-Q) and Mark Sheet (Annexure-R) in support of his claim.

70. It is pointed out that the Voter ID Card No. WHC 3632254 (Annexure-D) of his wife Manisha has been issued on 20.04.2022. The Appellant/Claimant has tendered Aadhar Card 6600 7614 9026 (Annexure-E) of his wife Manisha. Furthermore, both the documents (Annexure-D & Annexure-E) have been issued on the address of the Jhuggi No. A-57 regarding which the Appellant/Claimant has been claiming allotment from DDA. The Passbook of PNB (Annexure-F) shows that the Appellant/Claimant had opened the account on 15.03.2010, much prior to the cutoff date of 01.01.2015 and further in that document the address is mentioned to be Jhuggi No. A-57 regarding which the Appellant/Claimant has been claiming allotment from DDA. Dues Intimation Letter (Annexure-G) has been printed on 05.12.2014 with regard to the dues found due on 23.09.2014 by TATA power-DDL and it shows that the Appellant/Claimant had taken electricity connection much prior to 2015 and in that document also the address is mentioned to be Jhuggi No. A-57 regarding which the Appellant/Claimant has been claiming allotment from DDA. The SC Certificate (Annexure-P) of the Appellant/Claimant has been issued on 03.03.2016 on the address of his parents bearing Jhuggi No. A-33 and accordingly it is not material. Furthermore, the Appellant/Claimant had made an Application dated 03.06.2022 (Annexure-Q) for issuance of the Ration Card but till now no Ration Card has been issued in favour of the Appellant/Claimant. The Mark Sheet (Annexure-R) of the Appellant/Claimant has been issued on 31.05.2017 in that document also his address is mentioned to be Jhuggi No. A-57 regarding which the Appellant/Claimant has been claiming allotment from DDA. It is pointed out that all these documents except SC Certificate (Annexure-P) have been issued on the address of Jhuggi No. A-57 regarding which the Appellant/Claimant has been claiming allotment from DDA. These documents also corroborate that the Appellant/Claimant along with his family members was living in the Jhuggi No. A-57 since long and much prior to the Cutoff date of 01.01.2015.

71. It is also pertinent to point out that Radhey Shyam Meena, Dy. Director and Dilshad Ahemad, Assistant Director, have also stated that the Appellant/Claimant has opened the account on 15.03.2010 as reflected in the Passbook of PNB (Annexure-F) and further, the Dues

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Intimation Letter (Annexure-G) issued by Tata Power-DDL also shows that the electricity connection was taken by the Appellant/Claimant on 23.09.2014, much prior to the cut off date of 01.01.2015 and the connection was taken on the address of the Jhuggi No. A-57, regarding which he is claiming allotment from DDA.

72. The Appellant/Claimant has tendered Voter ID Cards & Aadhar Cards belonging to him and family members, Electoral Rolls, Bank Passbook of PNB, Dues Intimation Letter by TATA power-DDL, Application for issuance of Ration Card & Mark Sheet etc. and all these documents have been issued from 2013 to 2015 and it accordingly amply establishes that he as well as his family members have been living in the double storey Jhuggi No. A-57, Jailorwala Bagh, Ashok Vihar, since long and more particularly on the cutoff date of 01.01.2015 and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

73. As already pointed out, DDA has furnished the survey records along with video clips pertaining to the Jhuggi No. A-57 and in that video clip the Jhuggi No. A-57 is clearly seen to be a double storey structure from outside and further the room & kitchen Jhuggi of the Appellant/ Claimant is clearly seen. The Jhuggi of the Appellant/ Claimant was also found to exist by the survey team as reflected in the notes of EDC. It is pertinent to point out that DDA has not disputed about the existence of Jhuggi No. A-57 of the Appellant/Claimant but his claim was rejected wrongly by the EDC on the sole ground that he was not having second document as he had allegedly failed to submit any "one out" of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 inspite of the fact that as per our discussion above it has been found by us that he was having second document out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 but it was wrongly ignored by EDC.

74. The material placed on file shows that the Appellant/ Claimant was living separately & independently in the double storey Jhuggi No. A-57 and further as per our discussion above, the documents, Annexure-A, Annexure-B and Annexure- H to Annexure-O, shows that the Appellant/Claimant was having a valid Voter ID Card (Annexure-A) & Aadhar Card (Annexure-B) on the cutoff date of 01.01.2015 and his name also appears in the voter list of the year's 2015 to 2022 (Annexure- I to Annexure-O) and furthermore, these documents also corroborates that the Appellant/Claimant along with his family was living in Jhuggi No. A-57 regarding which he is claiming allotment from DDA much prior to the cutoff date of

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01.01.2015 as the Voter ID Card WHC 2028702 (Annexure-A) and further the Aadhar Card (Annexure-B) of the Appellant/Claimant have been issued on 21.03.2014 and 16.03.2012 respectively and thus undisputedly both the documents have been issued much prior to the cutoff date of 01.01.2015 on the address of Jhuggi No. A-57 regarding which he is claiming allotment from DDA. In addition to that the Passbook of PNB (Annexure-F) shows that the Appellant/Claimant had opened the account on 15.03.2010, much prior to the cutoff date of 01.01.2015 and further in that document the address is mentioned to be Jhuggi No. A-57 regarding which the Appellant/Claimant has been claiming allotment from DDA. Furthermore, Dues Intimation Letter (Annexure-G) has been printed on 05.12.2014 with regard to the dues found due on 23.09.2014 by TATA power-DDL and it shows that the Appellant/Claimant had taken electricity connection much prior to 2014 and in that document also the address is mentioned to be Jhuggi No. A-57 regarding which the Appellant/Claimant has been claiming allotment from DDA. The Dues Intimation Letter (Annexure-G) is electricity bill issued before 01.01.2015 and it is covered as one of the documents in the list of the 12 documents as enlisted in Clause 2 of the DDA policy, 2015 Furthermore, the Voter ID Card No. WHC 3632254 (Annexure-D) and Aadhar Card 6600 7614 9026 (Annexure-E) of his wife Manisha have been issued on the address of the Jhuggi No. A-57 regarding which the Appellant/Claimant has been claiming allotment from DDA. This shows that the Appellant/Claimant is also having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. In the light of our detailed discussion, we have no hesitation in holding that the Appellant/ Claimant was having all the requisite documents and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

75. 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 policy guidelines issued by DDA. But the Eligibility Determination Committee has wrongly and illegally rejected his claim. Hence the present appeal No. 138 of 2024/165 of 2024 stands allowed, hereby, setting aside the impugned order communicated vide order bearing No. 350-18/001.G dated 01.07.2023 issued by the Nodal Officer. DDA is hereby directed to make allotment in favour of Appellant/ Claimant, Mahinder Saroj S/o Bhola Saroj, in respect of the double storey Jhuggi No. A-57, Jailorwala Bagh, Ashok Vihar.

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

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

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

Appeal No: 50 of 2024

Date of Institution: 12.07.2023

Date of Order: 12.07.2024

Present: Appellant/ Claimant Dabalu Saroj S/o Dhola Saroj

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. E-91, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. E-91 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has

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rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350/Fresh/215 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 50 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 27.06.2024 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. Radhey Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. E-91 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. E-91 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Dabalu Saroj has been recorded before us on 27.06.2024 wherein he has stated that he is married with Sunita and having two children;

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Sahil & Sulli. Both the children are unmarried.

9. The Appellant/Claimant has stated that he is having a single storey Jhuggi bearing No. E-91. The Appellant/Claimant has stated that he along with his wife Sunita and both the children; Sahil & Sulli is living in the Jhuggi No. E-91. The Appellant/Claimant has sought allotment from DDA against the said single storey Jhuggi No. E-91 but his claim has been rejected by the Eligibility Determination Committee on the ground that he has been found to be claiming allotment from DDA against the upper floor and further his Voter ID Card could not be verified in spite of the fact that he has claimed allotment from DDA against the single storey Jhuggi No. E-91 and further he is having all the requisite documents as per the policy guidelines issued by DDA and accordingly, aggrieved by the same, he has filed the present Appeal No. 50 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make allotment in his favour.

10. DDA has furnished survey records along with one video clips of Jhuggi No. E-91. As per survey records the survey was got conducted by Sunita, who is the wife of the Appellant/Claimant, of Jhuggi No. E-91 on the ground floor of the said Jhuggi. Further, at the time of conducing of survey/videography Sunita, who is the wife of the Appellant/Claimant, was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

11. DDA has furnished survey record along with one video clip pertaining to the Jhuggi No. E-91. The video was played before the Appellant/Claimant when his statement was recorded before us on 27.06.2024 wherein he has stated that the video clip pertains to the Jhuggi No. E-91 in which his wife Sunita is seen and getting the survey conducted on behalf of the Appellant/Claimant and their room & kitchen are also seen and further, she is also seen holding a slate in her hand on which **"E-91 DABALU SAROJ (NOT IN LIST) G.F"** is clearly seen to have been written.

12. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case about the existence of the single storey Jhuggi No. E-91. Thus the statement of the Appellant/Claimant has duly proved that the single storey Jhuggi No. E-91 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is living in the said single storey Jhuggi No. E-91 and using the same

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for residential purposes.

13. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. E-91 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant was & is still using the said single storey Jhuggi No. E-91 for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi.

14. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the single storey Jhuggi No. E-91 as per the policy guidelines issued by DDA.

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

16. 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."

17. It is mandated that there is verification in terms of biometric authentication via Aadhar

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card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

18. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

19. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

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fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

22. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

23. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact

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whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

24. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

26. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims

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to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

27. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

28. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution

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of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

29. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

30. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

31. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of

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which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

34. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case

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(supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

36. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

37. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming

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

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

39. It is pointed out that we have already held that the single storey Jhuggi No. E-91 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

40. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the single storey Jhuggi No. E-91 as per the policy guidelines issued by DDA.

41. The Appellant/Claimant has tendered his Voter ID Card No. WHC 3636115 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter List (Annexure-K) in support of his claim.

42. It is pointed out that the Appellant/Claimant has tendered his Voter ID Card bearing number WHC 3636115 (Annexure-A) and it has been issued on 23.07.2022, much after the cutoff date of 01.01.2015 and accordingly the question of her name appearing in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Further, it is also pointed out that the Aadhar Card (Annexure-B) of the Appellant/Claimant has bene issued on 23.06.2015, much after the cutoff date of 01.01.2015. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 158 in the Voter List (Annexure-K) but the year of the Voter List is not mentioned therein and accordingly, this document in incomplete and cannot be considered. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a valid Voter ID Card

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on the cutoff date 01.01.2015 issued on the address of the Jhuggi No. E-91 regarding which he is claiming allotment from DDA and further, the name of the Appellant/Claimant also does not appear in any of the Voter Lists of the years from 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey, therefore, the Appellant/Claimant is not entitled for claiming alternative allotment from DDA.

43. The Appellant/Claimant has also tendered the Voter ID Card No. WHC 3636024 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Sunita, Acknowledgement Receipt for issuance of Ration Card (Annexure-G), Electricity Bill (Annexure-H) and Aadhar Cards (Annexure-I & Annexure-J) of his children Sulli & Sahil in support of his claim.

44. It is pointed out that the Appellant/Claimant has tendered the Voter ID Card No. WHC 3636024 of his wife Sunita and it has been issued on 23.07.2022, much after the cutoff date of 01.01.2015. Furthermore, the Aadhar Card (Annexure-E) of Sunita has been issued on 10.01.2016, much after the cutoff date of 01.01.2015. The material placed on file shows that neither the Appellant/Claimant nor his wife Sunita were having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. E-91, regarding which he is claiming allotment from DDA and furthermore, their names also do not appear in the Voter Lists of the year from 2012 to 2015. The Acknowledgement Receipt for issuance of Ration Card (Annexure-G) shows that the application for issuance of Ration Card has been made by the Appellant/Claimant on 29.07.2022, much after the cutoff date of 01.01.2015 and till now, no Ration Card has been issued in his favour. The Electricity Bill (Annexure-H) shows that the Appellant/Claimant has taken the electricity connection on 10.05.2022, much after the cutoff date of 01.01.2015. It is also pointed out that the Aadhar Card (Annexure-I) of his daughter Sulli has been issued on 11.06.2017 and the Aadhar Card (Annexure-J) of his son Sahil has been issued on 02.05.2019 and both the documents have been issued much after the cutoff date of 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. E-91, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) &

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also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

46. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. E-91, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-K, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make him eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

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47. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350/Fresh/215 dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

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

Appeal No: 63 of 2024

Date of Institution: 12.07.2023

Date of Order: 12.07.2024

Present: Appellant/ Claimant Dharmendra Kumar S/o Barkhu

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

ORDER j jjm jn

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. CN-169, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. CN-169 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has

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rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-201/350/201/09.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 63 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhe Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 12.04.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-S, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. CN-169 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. CN-169 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Dharmendra has been recorded before us on 12.04.2024 wherein he has stated that his parents, Barkhu & Prema, are having two sons,

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Mahesh & Dharmendra and three daughters, Sheela, Rekha & Madhuri. Barkhu had expired in the year 2023 whereas Prema is living in her native village in district Azamgarh, Uttar Pradesh. All the children are married. Sheela is married with Rajesh, Rekha is married with Awadhesh and Madhuri is married with Janardhan and all of them are living in their respective matrimonial homes in district Azamgarh, Uttar Pradesh. Mahesh is married with Chandrakala and having three children. Dharmendra (Appellant/Claimant) is married with Vimla and having four children, Gunjan, Shreya, Ayush & Aanvi.

9. The Appellant/Claimant has stated that his family was having two adjoining single storey Jhuggis and both were bearing Jhuggi No. CN-169. In the year 2013, both the single storey Jhuggis were demolished and in its place one pucca double storey Jhuggi was constructed and it was given Jhuggi No. CN-169 and it comprises of one room on each floor and an iron ladder is placed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that his brother, Mahesh, along with his wife, Chanderkala, and all the three children is living on the ground floor of the Jhuggi No. CN-169 regarding that DDA has made allotment in favour of Chanderkala. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Vimla and all the children, Gunjan, Shreya, Ayush & Aanvi is living on the first floor of the Jhuggi No. CN-169. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. CN-169 but his claim was rejected by the Eligibility Determination Committee on the ground that he was found to have claimed allotment against the upper floor ns further his Voter ID Card could not be verified in spite of the fact that he has admittedly claimed allotment against the first floor of the said Jhuggi No. CN-169 and further he is having all the requisite document as per the policy guidelines issued by DDA and accordingly, aggrieved by the same he has filed the present Appeal No. 63 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-S, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished survey records along with three video clips of Jhuggi No. CN-169. As per survey records the survey was got conducted by the Appellant/Claimant, of Jhuggi No. CN-169 on 09.03.2020 on the first floor of the said Jhuggi and his photograph is also attached in token thereof and further the documents tendered in support of the claim of the

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Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

13. DDA has furnished the survey records along with two video clips of Jhuggi No. CN-169. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 12.04.2024 wherein the Appellant/Claimant has stated that the first video clip pertains to the Jhuggi No. CN-169 in which his sister-in-law, Chanderkala W/o Mahesh, is seen and getting the survey conducted and further, her room & kitchen on the ground floor are seen and she is also seen holding a slate in her hand on which **"E-10 CN-169 CHANDERKALA G/F"** is seen to have been written and further she is heard making statement that her devar (brother-in-law) is living on the first floor of the said Jhuggi No. CN-169. The second video clip pertains to the first floor of the Jhuggi No. CN-169 in which the Appellant/Claimant is seen and getting the survey conducted and further his separate room as well as kitchen is seen on the first floor and he is also seen holding a slate in his hand on which **"E-10 CN-169 DHARMENDRA F/F"** is seen to have been written.

14. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case about the existence of the double storey Jhuggi No. CN-169. Thus the statement of the Appellant/Claimant has duly proved that the double storey Jhuggi No. CN-169 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and his brother, Mahesh, along with his wife, Chanderkala, and all the three children is living on the ground floor of the said double storey Jhuggi No. CN-169 and regarding that DDA has made allotment in favour of Chanderkala W/o Mahesh whereas the Appellant/Claimant along with his wife Vimla and all the children, Gunjan, Shreya, Ayush & Aanvi, is living on the first floor of the said double storey Jhuggi No. CN-169 and is using the same for residential purposes.

15. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. CN-169 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still living on the first floor of the said double storey Jhuggi No. CN-169 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of

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the said double storey Jhuggi.

16. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of the said double storey Jhuggi No. CN-169 as per the policy guidelines issued by DDA.

17. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-S, in support of his claim and prayed that DDA be directed to make allotment against the first floor of the said double storey Jhuggi No. CN-169 in his favour.

18. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-201/350/201/09.G dated 01.07.2023.

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

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"Part-B

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

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

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

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

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

20. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

21. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

22. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of

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01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

23. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

25. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

26. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before

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01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

27. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

28. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court

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of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

29. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

30. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

31. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a

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ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

32. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

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33. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

34. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

36. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers

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

37. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

39. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

40. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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

42. It is pointed out that we have already held that the double storey Jhuggi No. CN-169 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still living on the first floor of the said double storey Jhuggi No. CN-169 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the first floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

43. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor of the said double storey Jhuggi No. CN-169 as per the policy guidelines issued by DDA.

44. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), Letter No. AERO/AC-17/2024 dated 05.04.2024/ 08.04.2024 (Annexure-H) of AERO/AC-17 Wazirpur, Voter List of the year 2009 (Annexure-I), Voter List of the year 2010 (Annexure-J), Voter List of the year 2011 (Annexure-K) as well as Letter No. AERO/AC-17/2023/136 dated 26.03.2024 (Annexure-L) of AERO/AC-17, Wazirpur, Voter List of the year 2016 (Annexure-M), Voter List of the year 2017 (Annexure-N), Voter List of the

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year 2018 (Annexure-O), Voter List of the year 2019 (Annexure-P), Voter List of the year 2020 (Annexure-Q) and Voter List of the year 2022 (Annexure-R) in support of his claim.

FIRST VOTER ID CARD NO. JPF 0711732 DATED 28.07.2003

45. It is pointed out that the Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B). The Aadhar Card of the Appellant/Claimant is Annexure-C but the date of issuance is not mentioned in this document. The first Voter ID Card (Annexure-A) of the Appellant/Claimant is bearing number JPF 0711732 and it has been issued on 28.07.2003, much prior to the cutoff date 01.01.2015. The Letter No. AERO/AC-17/2024 dated 05.04.2024/ 08.04.2024 (Annexure-H) of AERO/AC-17 Wazirpur shows that the Voter ID Card No. JPF 0711732 (Annexure-A) has been verified to be a valid document as per the records from the Election Commission and it is also mentioned that this Voter ID Card is reflected in the Voter List of 2009 to 2011 but his name does not appear in the Voter List from 2012 to 2015. It is pointed out that the name of the Appellant/Claimant appears at Sl. No.927 in the Voter List of the year 2009 (Annexure-I), at Sl. No. 968 in the Voter List of the year 2010 (Annexure-J) and at Sl. No. 977 in the Voter List of the year 2011 (Annexure-K). Furthermore, in the Voter Lists (Annexure-I to Annexure-K), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be JPF 0711732 (Annexure-A).

46. However, the material placed on file shows that the Voter ID Card No. JPF 0711732 (Annexure-A) was not used after 2011 and it was cancelled by the Election Commission for having not used and that is why the Appellant/Claimant was compelled to get fresh Voter ID Card No. WHC 2173416 (Annexure-B) issued in his favour. But the fact remains that the first Voter ID Card No. JPF 0711732 (Annexure-A) did not exist in the years from 2012 to 2015 because had it been in use & remained a valid document during this period then it would have been reflected in the Voter List from the years 2012 to 2015 in the records of Election Commission. Therefore, the Voter ID Card No. JPF 0711732 (Annexure-A) did not exist on the cutoff date of 01.01.2015 and accordingly we have no hesitation in holding that the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 and 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.

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SECOND VOTER ID CARD NO. WHC 2173416 DATED 24.05.2023

47. It is pointed out that the Appellant/Claimant is having second Voter ID Card No. WHC 2173416 dated 24.05.2023 (Annexure-B). The Letter No. AERO/AC-17/2023/136 dated 26.03.2024 (Annexure-L) of AERO/AC-17, Wazirpur, shows that the Voter ID Card No. WHC 2173416 (Annexure-B) is verified to be a valid document as per the records of the Election Commission and this Voter ID Card has been reflected in the Voter List of 2016 to 2022. Further, the name of the Appellant/Claimant appears at Sl. No. 94 in the Voter List of the year 2016 (Annexure-M), at Sl. No. 98 in the Voter List of the year 2017 (Annexure-N), at Sl. No. 100 in the Voter List of the year 2018 (Annexure-O), at Sl. No. 101 in the Voter List of the year 2019 (Annexure-P), at Sl. No. 103 in the Voter List of the year 2020 (Annexure-Q) and at Sl. No. 103 in the Voter List of the year 2022 (Annexure-R).

48. It is pointed out that in all these Voter Lists (Annexure-M to Annexure-R) the number of the Voter ID Cards of the Appellant/Claimant is mentioned to be WHC 2173416 (Annexure-B). This shows that the Voter ID Card No. WHC2173416 dated 24.05.2022 (Annexure-B) tendered by the Appellant/Claimant is a duplicate Voter ID Card and the original must have been issued much prior to 24.05.2022 because it has been reflected in the Voter List of 2016. However, the original Voter ID Card is not tendered and accordingly it cannot be ascertained as to exactly on what date it was issued and there is no cogent material placed on file to show that it was issued much prior to the cutoff date of 01.01.2015. But the fact remains that the Voter ID Card No. WHC 2173416 (Annexure-B) was in existence in the year 2016, 2017, 2018, 2019, 2020 & 2022 because it has been duly reflected in the Voter Lists of these years (Annexure-M to Annexure-R) and further vide Letter No. AERO/AC-17/2023/136 dated 26.03.2024 (Annexure-L) of AERO/AC-17, Wazirpur, this Voter ID Card No. WHC 2173416 (Annexure-B) is proved to be a valid document but there is nothing to show that it existed on the cutoff date of 01.01.2015. Therefore, the Voter ID Card No. WHC 2173416 (Annexure-B)) did not exist on the cutoff date of 01.01.2015 and accordingly we have no hesitation in holding that the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 and 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.

49. The Appellant/Claimant has categorically admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No.

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CN-169 regarding which he is claiming allotment from DDA. The fact remains that the Appellant/Claimant was not having a separate Ration Card issued on the address of the first floor of the Jhuggi No. CN-169, regarding which the Appellant/Claimant is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

50. The Appellant/Claimant has tendered his Driving License (Annexure-D), Gas Connection (Annexure-E), Survey Form (Annexure-F), Delivery Card (Annexure-G) and Passbook of Bank of Baroda (Annexure-S) in support of his claim.

51. It is pointed out that the Driving License (Annexure-D) of the Appellant/Claimant has been issued on 22.03.2013, much prior to the cutoff date 01.01.2015. The Gas Connection No. 8595216051 (Annexure-E) has been issued in favour of the Appellant/Claimant on 14.01.2013, much prior to the cutoff date 01.01.2015. Furthermore, in the Survey Record (Annexure-F), the name of the Appellant/Claimant appears at Sl. No. 47 in which the Jhuggi is mentioned. The Delivery Card dated 17.07.2015 (Annexure-G) shows the the medical record of the pregnancy of the wife of the Appellant/Claimant. The Passbook of Bank of Baroda (Annexure-S) shows that the Appellant/Claimant has opened the account on 29.02.2012, much prior to the cutoff date 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. CN-169 regarding which he has been claiming allotment from DDA, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

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were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

53. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. CN-169, Jailorwala Bagh, regarding which he is claiming allotment from DDA in spite of the fact that he is claiming allotment from DDA against the upper floor, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with his family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-S, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

54. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-201/350/201/09.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

55. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court

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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.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

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

Appeal No: 10 of 2024

Date of Institution: 02.05.2023

Date of Order: 15.07.2024

Present: Appellant/ Claimant Ramota Devi W/o Faujdar

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. 357, F-BLOCK (CN/357) Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. 357, F-BLOCK (CN/357) was found to exist 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, Jailorwala Bagh, duly communicated its order bearing No. 350-63/26.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 10 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 05.06.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-H, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. 357, F-BLOCK (CN/357) was found to exist but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not *Verified / Upper Floor*"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. 357, F-BLOCK(CN/357) as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Ramota has been recorded before us on 05.06.2024, wherein she has stated that she is married with Faujdar and having two sons,

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Makhan & Chote Lal and four daughters, Sita, Maya, Manju & Anju. Out of whom only Chote Lal & Sita are married whereas the rest others are unmarried. Sita is married with Dinesh and she is living in her matrimonial home in Azamagarh, Uttar Pradesh. Chote Lal is married with Baby and having two children.

9. The Appellant/Claimant has stated that she is having a single storey Jhuggi No. F-357 (CN/357) Jailorwala Bagh, Ashok Vihar and it comprises of only one room and the entire family is living there. The Appellant/Claimant has sought allotment from DDA against the Jhuggi No. F-357 (CN/357) but her claim has been rejected by the Eligibility Determination Committee on the ground that she was found to be living on the upper floor and further her Voter ID Card could not be verified in spite of the fact that she has claimed allotment against the single storey Jhuggi No. F-357 (CN/357), Jailorwala Bagh, Ashok Vihar and further she is having all the requisite documents as per the policy guidelines issued by DDA and accordingly, aggrieved by the same she has filed the Appeal No. 10 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-H, in support of her claim and prayed that DDA be directed to make allotment in her favour.

10. DDA has furnished survey records along with one video clip of Jhuggi No. 357, F-BLOCK (CN/357). As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. 357, F-BLOCK (CN/357) on 18.03.2020 on the ground floor of the said Jhuggi and her photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant, was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

11. DDA has furnished the survey records along with one video clip of Jhuggi No. 357, F-BLOCK (CN/357). The video clip was played before the Appellant/Claimant when her statement was recorded before us on 05.06.2024 wherein the Appellant/Claimant has stated that the video clip pertains to the Jhuggi No. 357, F-BLOCK (CN/357) in which from outside the Jhuggi is clearly seen to be a single storey structure having roof made with asbestos sheet and further, the Appellant/Claimant is seen and getting the survey conducted and her room & kitchen are seen and further, she is also seen holding a slate in her hand on which **"CN-357 RAMOTA DEVI GF"** is seen to have been written.

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12. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the single storey Jhuggi No. 357, F-BLOCK (CN/357). Thus the statement of the Appellant/Claimant as well as the survey records has duly proved that the single storey Jhuggi No. 357, F-BLOCK (CN/357) was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the same for residential purposes.

13. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. 357, F-BLOCK (CN/357) was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi.

14. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the single storey Jhuggi No. 357, F-BLOCK (CN/357) as per the policy guidelines issued by DDA.

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

16. 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."

17. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

18. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

19. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

22. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

23. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the

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dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

24. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

26. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential

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commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

27. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

28. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the

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petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

29. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

30. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

31. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16

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were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

34. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age

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and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

36. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

37. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

38. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA. It is pointed out that we have already held that the single storey Jhuggi No. 357, F-BLOCK (CN/357) was in existence in the

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Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

39. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the single storey Jhuggi No. 357, F-BLOCK (CN/357) as per the policy guidelines issued by DDA.

40. The Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-B) and Aadhar Card (Annexure-C) in support of her claim.

41. It is pointed out that the first Voter ID Card (Annexure-A) of the Appellant/Claimant is bearing number JPF 0764522 and it has been issued on 20.07.2003, much prior to the cutoff date 01.01.2015. It is pointed out that the Appellant/Claimant has specifically admitted that this Appellate Authority had issued Order dated 09.05.2024 in order to help to get her Voter ID Card verified from the office of AERO/AC-17, Wazirpur and also to get Voter Lists of the years from 2012 to 2015 and she had also approached the office of AERO/AC-17 but she has been told that no record is available with the office of the Election Commission.

42. The Appellant/Claimant has specifically admitted that after issuance of Voter ID Card No. JPF 0764522 (Annexure-A) she had not voted in any of the elections and accordingly, this Voter ID Card No. JPF0764522 (Annexure-A) was cancelled by the Election Commission and that is why she has got the second Voter ID Card No. WHC 3291119 (Annexure-B) issued on 25.02.2020, much after the cutoff date 01.01.2015.

43. There is no doubt that the second Voter ID Card (Annexure-B) of the Appellant/Claimant is bearing number WHC 3291119 and it has been issued on 25.02.2020, much after the cutoff date 01.01.2015 and accordingly the question of her name appearing in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

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does not arise. The fact remains that the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date 01.01.2015 issued on the address of the Jhuggi No. F-357 (CN/357) regarding which she is claiming allotment from DDA and further, her name also does not appear in the Voter List of the years from 2012 to 2015.

44. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No.357,F-BLOCK(CN/357) Jailorwala Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

45. The Appellant/Claimant has tendered two Voter ID Cards (Annexure-D & Annexure-E) & Aadhar Card (Annexure-F) of her husband Faujadar, Electricity Bill (Annexure-G) and Ration Card (Annexure-H) in support of her claim.

46. It is pointed out that the Appellant/Claimant has tendered two Voter ID Cards (Annexure-D & Annexure-E) of her husband Faujdar. The first Voter ID Card (Annexure-D) of her husband Faujdar is bearing number JPF 0764514 and it has been issued on 20.07.2003, much prior to the cutoff date 01.01.2015 but it is pertinent to pointed out that the Appellant/Claimant has stated that her husband has not used this Voter ID Card No. JPF 0764514 (Annexure-D) to cast vote in any of the election and accordingly it was cancelled by the Election Commission and therefore, his name also does not appear in the Voter List of the years from 2012 to 2015. Since, the first Voter ID Card No. JPF 0764514 (Annexure-D) of her husband Faujdar was cancelled by the Election Commission, therefore, he got the second Voter ID Card bearing number WHC3540804 (Annexure-E) issued on 04.03.2021, much after the cutoff date 01.01.2015 and accordingly, the question of his name appearing in the Voter List of the years from 2012 to 2015 does not arise. The fact remains that neither the Appellant/Claimant nor her husband Faujdar was having a valid Voter ID Card on the cutoff date 01.01.2015 issued on the address of the Jhuggi No. F-357 (CN/357) regarding which the Appellant/Claimant has been claiming allotment from DDA and further their names also do not appear in the Voter List of the year from 2012 to 2015. The Electricity Bill (Annexure-G) shows that her husband Faujdar had taken electricity connection on 12.11.2011. Furthermore, the Ration Card No. 077004380658 (Annexure-H) has been issued in favour of the Appellant/Claimant and the name of other family members have been mentioned but

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the date of issuance is not mentioned. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. F-357 (CN/357) regarding which the Appellant/Claimant is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

48. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No.357, F-BLOCK (CN/357) Jailorwala Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat &

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defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-H, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

49. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-63/26.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

Appeal No: 220 of 2024

Date of Institution: 24.07.2023

Date of Order: 16.07.2024

Present: Appellant/ Claimant Satish S/o Sant Raj

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. F-45, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. F-45 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has

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rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-201/49.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 220 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 26.06.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-Q, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. F-45 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. F-45 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Satish has been recorded before us on 26.06.2024 wherein he has stated that his parents, Sant Raj & Prabhavati Devi, are having three sons; Satish, Roshan & Chaman and one daughter; Muskan. Out of whom, Chaman & Muskan are

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unmarried. Roshan is married with Khushbu and having one daughter; Baby. Satish (Appellant/Claimant) is married with Laxmi but they are not having any issues out of the wedlock.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. F-45, Jailorwala Bagh, Ashok Bihar and it comprises of one room on each floor and a bamboo ladder has been placed outside in the gali and used for going to the upper floor.

10. The Appellant/Claimant has stated that he along with his wife Laxmi and parents as well as unmarried siblings Chaman & Muskan and the family of Roshan is living in the said double storey Jhuggi No. F-45. The Appellant/Claimant has sought alternative allotment from DDA against the said double storey Jhuggi No. F-45 but his claim has been rejected by Eligibility Determination Committee on the ground that he was found to be claiming allotment against the first floor and further his Voter ID Card could not be verified in spite of the fact that he has claimed allotment against the said double storey Jhuggi No. F-45 and further he is having all the requisite documents issued as per policy guidelines issued by DDA and furthermore, in the Rejection Order dated 01.07.2023, the number of his Jhuggi regarding which he is claiming allotment has been mentioned to be "45" whereas the number of his Jhuggi is "F-45" and he has submitted all the documents pertaining to the Jhuggi No. F-45 and accordingly, aggrieved by the same, he has filed the present Appeal No. 220 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-Q, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished survey records along with one video clip of Jhuggi No. F-45. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. F-45 on - 09.03.2021 on the ground floor of the said Jhuggi and his photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography Sant Raj, who is the father of the Appellant/Claimant, was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

12. DDA has furnished the survey record along with one video clip pertaining to the Jhuggi No. F-45. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 26.06.2024 wherein he has stated that the video clip pertains to the

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Jhuggi No. F-45 in which from outside the Jhuggi is clearly seen to be a double storey pucca structure and a bamboo ladder is also seen placed outside in the gali and used for going to the upper floor and further, his father Sant Raj is seen and getting the survey conducted and further, he is seen holding a slate in his hand on which **"F-45 SANT RAJ NOT IN LIST G.F"** is seen to have been written.

13. It is pertinent to point out that the Appellant/Claimant Satish has sought allotment from DDA against the Jhuggi No. F-45 but due to some clerical mistake in the Rejection Order, the number of his Jhuggi is mentioned to be "45" and not "F-45" and accordingly, this mistake is ignored as it being clerical/typographical error does not go to the root of the case.

14. It is also pointed out that the Appellant/Claimant has sought allotment from DDA against the Jhuggi No. F-45 but instead of the Appellant/Claimant getting the survey conducted, the survey was got conducted by his father Sant Raj and it is also pointed out that his father Sant Raj is getting the survey conducted in his individual capacity and not on behalf of his son Satish (Appellant/Claimant) because Sant Raj is seen holding a slate in his hand on which **"F-45 SANT RAJ NOT IN LIST G.F"** is seen to have been written. This shows that the Appellant/Claimant Satish as well as his father Sant Raj have been claiming allotments from DDA against the Jhuggi No. F-45 and this creates doubt & suspicion and it seems that they have concocted a wrong & false story to grab maximum allotments from DDA by hook or crook.

15. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the double storey Jhuggi No. F-45. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. F-45 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the same for residential purposes.

16. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. F-45 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

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17. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi No. F-45 as per the policy guidelines issued by DDA.

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

19. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-201/49.G dated 01.07.2023.

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.

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

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

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

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- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

21. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

22. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

23. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015.

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

24. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

26. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

27. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor

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cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

28. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

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has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

31. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

32. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before

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adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

33. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

34. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

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35. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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

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16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

40. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

41. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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

43. It is pointed out that we have already held that the double storey Jhuggi No. F-45 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

44. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi No. F-45 as per the policy guidelines issued by DDA.

45. The Appellant/Claimant has tendered his Voter ID Card No. WHC 3622691 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of his claim.

46. It is pointed out that the Appellant/Claimant has tendered his Voter ID Card bearing number WHC 3622691 (Annexure-A) and it has been issued on 18.04.2024, much after the cutoff date of 01.01.2015 and accordingly, the question of his name appearing in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. F-45 regarding which he has been claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

47. The Appellant/Claimant has tendered two Voter ID Cards (Annexure-D & Annexure-E) & Aadhar Card (Annexure-F) of his father Sant Raj and also Voter List of the year 2014 (Annexure-N), Voter List of the year 2015 (Annexure-O), Voter List of the year 2016 (Annexure-P) & Voter List of the year 2017 (Annexure-Q).

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48. It is pointed out that the Appellant/Claimant has tendered two Voter ID Cards (Annexure-D & Annexure-E) of his father Sant Raj. The first Voter ID Card of his father Sant Raj is bearing No. JPF 0682500 and it has been issued on 09.06.2002 on the address of the Jhuggi No. CN-160, E-Block, Jailorwala Bagh and not on the address of the Jhuggi No. F-45, regarding which the Appellant/Claimant is claiming allotment from DDA and accordingly, this document is not relevant to determine the eligibility of the Appellant/Claimant.

49. The Appellant/Claimant has tendered the second Voter ID Card bearing No. WHC 1266212 (Annexure-E) of his father Sant Raj and it has been issued on 27.04.2023, much after the cutoff date of 01.01.2015. However, it is pointed out that the name of his father Sant Raj appears at Sl. No. 1082 in the Voter List of the year 2014 (Annexure-N), at Sl. No. 1557 in the Voter List of the year 2015 (Annexure-O), at Sl. No. 358 in the Voter List of the year 2016 (Annexure-P) & at Sl. No. 374 in the Voter List of the year 2017 (Annexure-Q). This shows that the original Voter ID Card No. WHC 1266212 of his father Sant Raj must have been issued much prior to 27.04.2023 as mentioned in the Voter ID Card (Annexure-E) because he had used this Voter ID Card to cast vote in the years from 2014 to 2017 as reflected in the Voter Lists of the year 2014 to 2017 (Annexure-N to Annexure-Q). However, all these documents are not material to determine the eligibility of the Appellant/Claimant because as per our discussion above, the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 and further, his name also does not appear in the Voter List of the year 2012 to 2015.

50. The Appellant/Claimant has also tendered the Passbook of Bank of India (Annexure-G), Electricity Bill (Annexure-H), two Ration cards (Annexure-I & Annexure-J) as well as the Voter ID Card No. WHC 2017705 (Annexure-K), Aadhar Card (Annexure-L) & PAN Card (Annexure-M) of his mother Prabhavati.

51. It is pointed out that the Passbook of Bank of India (Annexure-G) shows that his father Sant Raj has opened the account on 11.03.2011 and the Electricity Bill (Annexure-H) shows that his father Sant Raj had taken the electricity connection on 06.03.2017, much after the cutoff date of 01.01.2015. Furthermore, the Appellant/Claimant has tendered two Ration Cards (Annexure-I & Annexure-J). The first Ration Card (Annexure-I) is bearing No. 889475 and it has been issued in favour of his father Sant Raj on 16.04.1999 and the name of the Appellant/Claimant is mentioned therein. The second Ration Card (Annexure-J) is bearing No. BPL 53180009 and it has been issued in favour of his father Sant Raj on 06.08.2002 and

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the name of the Appellant/Claimant is mentioned therein. But both the Ration Cards (Annexure-I & Annexure-J) have been issued on the address of the Jhuggi No. N-207/1434 whereas the Appellant/Claimant has been claiming allotment against the Jhuggi No. F-45. Further, it is pointed out that the Voter ID Card No. WHC 2017705 (Annexure-K) of his mother Prabhavati has been issued on 18.01.2014, much prior to the cutoff date of 01.01.2015 but the Appellant/Claimant has not tendered any Voter List to show that she has used her Voter ID Card to cast vote in any of the elections and more particularly in the years from 2012 to 2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. F-45 regarding which he has been claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

53. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. F-45 regarding which he has been claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant

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had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-Q, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

54. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-201/49.Gdated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

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

Appeal No: 40 of 2024

Date of Institution: 10.07.2023

Date of Order: 18.07.2024

Present: Appellant/ Claimant Gorakh S/o Nanak

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. E-155, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. E-155 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

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allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350/Fresh/122 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 40 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 27.06.2024. 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. Radhey Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. E-155 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. E-155 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Gorakh has been recorded before us on 27.06.2024 wherein he has stated that he is married with Gita and having three children; Subham, Shivam & Deepika. All the children are unmarried.

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9. The Appellant/Claimant has stated that he is having a double storey Jhuggi bearing No. E-155 and it comprises of one room on each floor and an iron ladder has been placed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that he along with his wife Gita and all the children; Subham, Shivam & Deepika is living in the Jhuggi No. E-155. The Appellant/Claimant has sought allotment from DDA against the said double storey Jhuggi No. E-155 but his claim has been rejected by the Eligibility Determination Committee on the ground that he has been found to be claiming allotment from DDA against the upper floor and further his Voter ID Card could not be verified in spite of the fact that he has claimed allotment from DDA against the double storey Jhuggi No. E-155 and further he is having all the requisite documents as per the policy guidelines issued by DDA and accordingly, aggrieved by the same, he has filed the present Appeal No. 40 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-F, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished survey records along of Jhuggi No. E-155. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. E-155. Further, at the time of conducting of videography the Appellant/Claimant was present and accordingly the video clip of Jhuggi No. E-155 is available in token thereof.

12. DDA has furnished survey record along with one video clip pertaining to the Jhuggi No. E-155. The video was played before the Appellant/Claimant when his statement was recorded before us on 27.06.2024 wherein he has stated that the video clip pertains to the Jhuggi No. E-155 in which the Appellant/Claimant is seen and getting the survey conducted and his room & kitchen are also seen and further, he is also seen holding a slate in his hand on which **"E-37 (155) GORAKH (NOT IN LIST) G+1"** is clearly seen to have been written.

13. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records, about the existence of the double storey Jhuggi No. E-155. Thus the statement of the Appellant/Claimant as well as the survey records has duly proved that the double storey Jhuggi No. E-155 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the same for residential purposes.

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14. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. E-155 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

15. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi No. E-155 as per the policy guidelines issued by DDA.

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

17. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350/Fresh/122 dated 01.07.2023.

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

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

"Part-B

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

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

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

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

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

19. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

20. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

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

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the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

22. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

24. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

25. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an

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option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

26. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

28. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

29. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

30. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-

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issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

31. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

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

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removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

33. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

36. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

38. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against

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the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

39. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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

41. It is pointed out that we have already held that the double storey Jhuggi No. E-155 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

42. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi No. E-155 as per the policy guidelines issued by DDA.

43. The Appellant/Claimant has tendered his Voter ID Card No. SZM 1688661 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of his claim.

44. It is pointed out that the Appellant/Claimant has tendered his Voter ID Card bearing number SZM 1688661 (Annexure-A) and it has been issued on 20.08.2022, much after the cutoff date of 01.01.2015 and accordingly, the question of his name appearing in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the

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year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. E-155 regarding which he has been claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

45. The Appellant/Claimant has also tendered the Passbook of Bank of Baroda (Annexure-D), Electricity Bill (Annexure-E) and Acknowledgement Receipt for issuance of Ration Card (Annexure-F) in support of his claim.

46. It is pointed out that the Passbook of Bank of Baroda (Annexure-D) shows that the Appellant/Claimant has opened the account on 23.11.2017, much after the cutoff date of 01.01.2015. The Electricity Bill (Annexure-E) shows that the Appellant/Claimant has taken the electricity connection on 20.12.2013. The Appellant/Claimant is not having a Ration Card and he has placed Acknowledgement Receipt for issuance of Ration Card (Annexure-F) on file which shows that his wife Gita has made application for issuance of Ration Card on 18.12.2022, much after the cutoff date of 01.01.2015 and till now, no Ration Card has been issued in her favour. It is also pointed out that the the Appellant/Claimant has not tendered the Voter ID Card of his wife Gita to show that she was having a valid Voter ID Card on the cutoff date 01.01.2015 issued on the address of the Jhuggi No. E-155 regarding which the Appellant/Claimant has been claiming allotment from DDA and further he had used the same to cast vote in any of the elections and more particularly in the years from 2012 to 2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. E-155, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

48. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. E-155, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-F, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

49. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly

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rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350/Fresh/122dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

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

Appeal No: 231 of 2024

Date of Institution: 25.07.2023

Date of Order: 18.07.2024

Present: Appellant/ Claimant Sant Raj S/o Ram Bilas Yadav

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. F-82, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. F-82 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the

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Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-205/23.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 231 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhe Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 26.06.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-V, 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. Radhe Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. F-82 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. F-82 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Sant Raj has been recorded before us on 26.06.2024 wherein he has stated that his parents, Ram Bilas & Kunta Devi, are having two sons; Sant Raj & Ramanand. Both the sons are married. Ramanand is married with Kismati

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and having three children. Sant Raj (Appellant/Claimant) is married with Sheela and having two sons; Rakesh & Subhash and two daughters; Madhuri & Kiran. Out of whom, Subash & Kiran are unmarried whereas Madhuri is married with Anand and she is living in her matrimonial home in Gorakhpur, Uttar Pradesh and Rakesh is married with Shalu.

9. The Appellant/Claimant has stated that he is having a double storey Jhuggi No. F-82 in Jailorwala Bagh, Ashok Vihar and it comprises of one room on each floor and a bamboo ladder is placed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that his brother Ramanand along with his wife Kismati and all the three children is living on the ground floor of the Jhuggi No. F-82 and regarding that DDA has made allotment in favour of Kismati W/o Ramanand. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Sheela and both the unmarried children, Subhash & Kiran, as well as the family of his son Rakesh is living on the first floor of the Jhuggi No. F-82. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. F-82 but his claim has been rejected by Eligibility Determination Committee on the ground that he was found to have claimed allotment against the upper floor and further his Voter ID Card could not be verified in spite of the fact that admittedly he has claimed allotment against the first floor of the Jhuggi No. F-82 and he has all the requisite documents as per the policy/guidelines issued by DDA and accordingly, aggrieved by the same, he has filed the present Appeal No. 231 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-V, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished survey records along with three video clips of Jhuggi No. F-82. As per survey records the survey was got conducted by the Appellant/Claimant, of Jhuggi No. F-82 on 18.04.2020 on the first floor of the said Jhuggi and his photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant, was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

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13. DDA has furnished survey record along with two video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 26.06.2024 wherein he has stated that the first video clip pertains to the ground floor of the Jhuggi No. F-82 in which the Jhuggi No. F-82 is clearly seen from outside to be a double storey pucca structure and a bamboo ladder is seen placed outside in the gali and it is used for going to the upper floor and further, Kismati W/o Ramanand is seen and getting the survey conducted and her room & kitchen are also seen and further, Kismati is seen holding a slate in her hand on which **"F-82 KISHMATI G.F"** is seen to have been written. The second video clip pertains to the first floor of the Jhuggi No. F-82 in which the Appellant/Claimant is seen on the first floor having roof made with Balli & Tirpal and he is seen holding a slate in his hand on which **"F-82 SANT RAJ FF"** is seen to have been written.

14. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case about the existence of the double storey Jhuggi No. F-82. Thus the statement of the Appellant/Claimant has duly proved that the double storey Jhuggi No. F-82 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and his brother, Ramanand along with his wife Kismati & three children is living on the ground floor of the said double storey Jhuggi No. F-82 and regarding that DDA has made allotment in favour of Kismati W/o Ramanand whereas the Appellant/Claimant along with his wife Sheela and both the unmarried children, Subhash & Kiran, as well as the family of his son Rakesh, is living on the first floor of the said double storey Jhuggi No. F-82 and is using the same for residential purposes.

15. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. F-82 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still living on the first floor of the said double storey Jhuggi No. F-82 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi.

16. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the

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year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of the said double storey Jhuggi No. F-82 as per the policy guidelines issued by DDA.

17. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-V, in support of his claim and prayed that DDA be directed to make allotment against the first floor of the said double storey Jhuggi No. F-82 in his favour.

18. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-205/23.G dated 01.07.2023.

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.

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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."

20. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

21. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

22. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against

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the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

23. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

25. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

26. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor

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cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

27. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

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concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

30. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

31. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is

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arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

32. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

33. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

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34. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

37. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case

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(supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

39. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

40. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming

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

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

42. It is pointed out that we have already held that the double storey Jhuggi No. F-82 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still living on the first floor of the said double storey Jhuggi No. F-82 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the first floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

43. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor of the said double storey Jhuggi No. F-82 as per the policy guidelines issued by DDA.

44. The Appellant/Claimant has tendered his three Voter ID Cards (Annexure-A, Annexure-B & Annexure-C), Aadhar Card (Annexure-D), PAN Card (Annexure-E), Letter No. F. No. AERO/AC-17/2024/199 dated 14.06.2024 (Annexure-N) issued by AERO, AC-17, Wazirpur, Voter List of the year 2015 (Annexure-O), Voter List of the year 2016 (Annexure-P), Voter List of the year 2017 (Annexure-Q), Voter List of the year 2018 (Annexure-R), Voter List of the year 2019 (Annexure-S), Voter List of the year 2020 (Annexure-S), Voter List of the year 2022 (Annexure-U) and Voter List of the year 2023 (Annexure-V) in support of his claim.

45. It is pointed out that the Appellant/Claimant has tendered his three Voter ID Cards (Annexure-A to Annexure-C) issued on the address of the Jhuggi No. F-82, Jailorwala Bagh, but he has failed to explain the reasons for having got three Voter ID Cards issued in his favour and this creates doubt & suspicion.

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46. The first Voter ID Card is bearing number WHC 1261587 (Annexure-A) and it has been issued on 01.01.2011, much prior to the cutoff date of 01.01.2015 but no Voter List has been placed on file to show that this Voter ID Card was used to cast vote in any of the elections and furthermore in that Voter ID Card the name of the Appellant/Claimant is mentioned to be "SANT RAM". Furthermore, the Appellant/Claimant has also tendered the third Voter ID Card bearing No. WHC 3664307 (Annexure-C) and it has been issued on 24.08.2023, much after the cutoff date of 01.01.2015 but it is not relevant as it pertains to the post cutoff date of 01.01.2015.

47. The second Voter ID Card is bearing No. WHC 2040178 and it has been issued on 21.03.2014 but in that Voter ID Card, the name of the Appellant/Claimant is mentioned to be "HANS RAJ" and not "SANT RAJ".

48. The Letter No. F. No. AERO/AC-17/2024/199 dated 14.06.2024 (Annexure-N) issued by AERO, AC-17, Wazirpur shows that the Voter ID Card No. WHC 2040178 to be a valid document as per records of the Election Commission and furthermore this Voter ID Card is also reflected in the Voter List of the year 2015 to 2023.

49. It is also pointed out that the name of the Appellant/Claimant appears at Sl. No. 1314 in the Voter List of the year 2015 (Annexure-O), at Sl. No. 421 in the Voter List of the year 2016 (Annexure-P), at Sl. No. 438 in the Voter List of the year 2017 (Annexure-Q), at Sl. No. 445 in the Voter List of the year 2018 (Annexure-R), at Sl. No. 436 in the Voter List of the year 2019 (Annexure-S), at Sl. No. 454 in the Voter List of the year 2020 (Annexure-T), at Sl. No. 471 in the Voter List of the year 2022 (Annexure-U) & at Sl. No. 485 in the Voter List of the year 2023 (Annexure-V) and further, in all these Voter Lists (Annexure-O to Annexure-V), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be WHC 2040178.

50. Therefore, we have no hesitation in holding that the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and further his name also appears in the voter list of the year's from 2015 to 2023.

51. It is pointed out that the Appellant/Claimant has categorically admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. F-82 regarding which he is claiming allotment from DDA. The fact remains that the Appellant/Claimant was not having a separate Ration Card issued on the address of the first floor of the Jhuggi No. F-82, regarding which the Appellant/Claimant is

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

52. The Appellant/Claimant has also tendered the Aadhar Card (Annexure-F), PAN Card (Annexure-G) & e-SHRAM Card (Annexure-H) of his son Rakesh Yadav, Passbook of Indian Overseas Bank (Annexure-I), Passbook of Karnataka Bank (Annexure-J), Passbook of SBI (Annexure-K), Electricity Bill (Annexure-L) and Gas Agency Consumer Card (Annexure-M) in support of his claim.

53. It is pointed out that the Appellant/Claimant has tendered the Aadhar Card (Annexure-F), PAN Card (Annexure-G) & e-SHRAM Card (Annexure-H) of his son Rakesh. The Passbook of Indian Overseas Bank (Annexure-I) shows that his son Rakesh has opened the account on 06.12.2018, much after the cutoff date of 01.01.2015. The Passbook of Karnataka Bank (Annexure-J) shows that his son Rakesh has opened the account but the date of opening the account is not mentioned therein. The Passbook of SBI (Annexure-K) shows that the Appellant/Claimant has opened the account on 23.09.2021, much after the cutoff date of 01.01.2015. The Electricity Bill (Annexure-L) shows that the electricity connection has been taken by the Appellant/Claimant on 02.08.2013. The Gas Agency Consumer Card (Annexure-M) shows that the gas connection has been taken by the Appellant/Claimant on 11.03.2021, much after the cutoff date of 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. F-82 regarding which he has been claiming allotment from DDA, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

54. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly accordingly to the merit of the individual case as per the material available in individual files of all the Applicants JJ

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dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

55. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. F-82, Jailorwala Bagh, regarding which he is claiming allotment from DDA in spite of the fact that he is claiming allotment from DDA against the upper floor, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with his family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-V, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

56. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-205/23.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

57. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within

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one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBERR**

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

Appeal No: 248 of 2024

Date of Institution: 31.07.2023

Date of Order: 18.07.2024

Present: Appellant/ Claimant Param Dei W/o Raja Ram

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

ORDER

1. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. F-117 (N-207/206), Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. F-117 (N-207/206) was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-201/39.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 248 of 2024 has been filed by the present Appellant/ Claimant.

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2. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhe Shyam Meena, Dy. Director.

3. The statement of the Appellant/Claimant has been recorded before us on 10.05.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-W, in support of her claim. In view of the letter bearing U.O. NO. F2(ISR)/AA/PMAY/37 dated 03.06.2024, whereby the observations made by Principal Commissioner (Housing) and worthy Vice Chairman, DDA have been annexed, the representatives of PMAY-ISR Department of DDA has also examined Sh. Dilshad Ahemad, Assistant Director, and his statement has also been recorded before us on 05.07.2024. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

4. Arguments advanced by the Appellant/Claimant as well as Sh. Radhe Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

5. It is the admitted fact that as per survey records, the Appellant / Claimant's Jhuggi bearing No. F-117 was found to exist but she had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternative allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

6. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. F-117 (N-207/206) as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant Param Devi has been recorded before us on 10.05.2024 wherein she has stated that she was married with Raja Ram and having five sons; Virender, Krishan Murari, Dalip, Narinder & Dharminder and six daughters; Chanderwati, Gianwati, Sunita, Sangita, Bhanwati & Mithlesh. Raja Ram had expired on 21.02.2014 and his

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Death Certificate is Annexure-J. All the children are married. Virender is married with Sushila and Dharminder is married with Sunita and they along with their respective families are living in their native village in District Azamgarh, Uttar Pradesh. Krishan Murari is married with Parmila and Narinder is married with Anjali and both of them along with their respective families are living in Chandigarh. Dalip is married with Nisha and he is living in Bhuj, Gujarat. Chanderwati is married with Rambich and she is living in her matrimonial home in Jailorwala Bagh and regarding that DDA has made allotment in favour of Rambich. Gianwati, Sunita, Sangita & Mithlesh are married and they are living in their respective matrimonial homes in Azamgarh, Uttar Pradesh. Bhanwati was married with Vinod and having three children; Muskan, Sachin & Nimbo and all of them are living with the Appellant/Claimant in Jailorwala Bagh, but Bhanwati had expired about 5-6 months ago.

8. The Appellant/Claimant has stated that she along with her husband Raja Ram (until his death on 21.02.2014) is living in the double storey Jhuggi No. F-117, Jailorwala Bagh, Ashok Vihar and it comprises of one room on each floor and a bamboo ladder is placed outside in the gali and it is used for going to the upper floor. Further, this double storey Jhuggi was previously bearing number N-207/206 but subsequently the number was changed to F-117 and accordingly in some documents the number is recorded to be Jhuggi No. F-117 whereas in other documents the number is recorded to be Jhuggi No. N-207/206 and in other documents as Jhuggi No. F-117 (N-207/206) and all these numbers pertain to the one and same double storey Jhuggi of the Appellant/Claimant bearing Jhuggi No. F-117 (N-207/206) regarding which she has claimed allotment from DDA.

9. The Appellant/Claimant has tendered an Affidavit dated 19.07.2023 (Annexure-A) wherein she has deposed on oath that she is also called as "PARAM DEI", "PREMA DEVI" & "PARAM DEVI" and further, "PARAM DEI", "PREMA DEVI" & "PARAM DEVI" are one and the same person and it is also mentioned that the Jhuggi No. N-207/206 as well as Jhuggi No. F-117 are the number of the same dwelling unit bearing Jhuggi No. F-117 (N-207/206), Jailorwala Bagh.

10. The Appellant/Claimant is an old widow & illiterate lady as her husband had died on 21.02.2014 and there is nothing abnormal in misspelling or wrong recording of her name in different documents and accordingly there is nothing to disbelieve her statement that her name has been mis-spelt in various documents and accordingly it is held that the Appellant/Claimant is known/referred as Param Dei @ Param Devi @ Prema Devi

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@Paramdei Devi and these name are of the one & the same person, namely, the present Appellant/Claimant, Param Dei.

11. The Appellant/Claimant has stated that she has sought allotment from DDA against the said double storey Jhuggi No. F-117 (N-207/206) but her claim has been rejected by Eligibility Determination Committee on the grounds that she has been found to have claimed allotment against the Upper floor and further her Voter ID Card could not be verified in spite of the fact that she has admittedly claiming allotment from DDA against the said double storey Jhuggi No. F-117 (N-207/206) and further she is having all the requisite documents as per the policy guidelines issued by DDA and accordingly, aggrieved by the same, she has filed the present Appeal No. 248 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also further stated that she has sought allotment from DDA against the Jhuggi No. F-117 (N-207/206) but in the Rejection Order dated 01.07.2023 (Annexure-U) her address as well as the number of the Jhuggi regarding which she has claimed allotment in wrongly mentioned to be "C-117" in place of "F-117 or F-117 (N-207/206)". The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-T, in support of her claim and prayed that DDA be directed to make allotment in her favour.

REJECTION OF REPRESENTATION BY EDC VIDE ORDER DATED 06.09.2022

12. Now we shall appraise the material placed on file to show as to how the EDC had proceeded to deal with the claim and more particularly as to whether it was swayed by irrelevant matter or it has determined the claim of the Appellant/ Claimant fairly & independently.

13. It is not disputed that the claim of the Appellant/ Claimant was placed before the Eligibility Determination Committee (hereinafter called EDC). It is pertinent to point out that the claim of the Appellant/ Claimant was rejected by EDC on 06.09.2022 and the Nodal Officer, Kathputli Colony, duly communicated its order bearing No. 350-201/39.G dated 01.07.2023 to the present Appellant/Claimant and the EDC Note dated 06.09.2022 (Annexure-V) is reproduced for better understanding of the facts and the grounds on which the claim of the present Appellant/ Claimant was rejected, as under: -

EDC Note dated 06.09.2022 (Annexure-V)

"1. While examining the present case for determination of eligibility, it was observed that there was some deficiency in the requisite documents as per policy guidelines. In this regard, a Public Notice was issued on 14.03.2022 for organised a

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camp from 01.06.2022 to 15.06.2022 at DDA site office Jailor wala site office, Ashok Vihar, Delhi-52. Wherein, the applicant/ claimant to give him/her an opportunity for submission of required documents. The applicant failed to submit requisite documents in spite of opportunity. As per survey record, the applicant jhuggi existed on Ground and the policy guidelines for alternate allotment in cases of Ground is as under:

2. As per policy guidelines, Part –B The eligibility criteria for allotment of alternative dwelling units for rehabilitation and relocation of JJ dwellers would be as under: - The name of JJ dwellers must appear in at least one of the Voter Lists of the Year's 2012,2013,2014,2015 (Prior to 01.01.2015) and also in the year of survey, for the purpose of rehabilitation. However, name of the applicant does not appear in voter lists of year 2012,2013,2014 and 2015 (prior to 01.0-1.2015) the voter card number WHC 3333804 submitted by the applicant and not found valid. Found after cut off date.

3. The applicant/claimant has also failed to submit valid voter ID card. Hence; the applicant/claimant does not fulfil the eligibility criteria. The applicant/claimant is found ineligible for alternative allotment"

14. The survey records placed on file shows that the Jhuggi of the Appellant/ Claimant was found to exist but her claim was rejected by EDC on 06.09.2022 on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified 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).

Furthermore, it is pertinent to point out that the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not verified / Upper Floor"**.

15. The bare perusal of the Note dated 06.09.2022 (Annexure-V) also shows that it is no where disputed by DDA as far as the existence of the Jhuggi of the Appellant/ Claimant and also further the Appellant/ Claimant along with her family having been found to be living there separately & independently and using it for residential purposes is concerned but her claim was rejected on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). The fact as to whether the Appellant/ Claimant was

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having a valid Voter ID Card on the cutoff date of 01.01.2015 and her name appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey shall be discussed in detail by us in the later part of this order. Thus the fact remains that as per the stand of DDA the Appellant/ Claimant was having a separate dwelling unit bearing double storey Jhuggi except that she was allegedly not having all the requisite documents.

16. It is pointed out that DDA has also examined Dilshad Ahemad, Assistant Director, and his statement has also been recorded before us on 05.07.2024 wherein he has stated that the Appellant/Claimant has allegedly claimed alternative allotment against the double storey Jhuggi No. F-117 (N-207/206) in Jailorwala Bagh, Ashok Vihar and her claim for alternative allotment was rejected by Eligibility Determination Committee on 06.09.2022 (Annexure-V) on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified 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). However, in the survey records it is mentioned that the survey/videography/photography was conducted on 08.03.2021 but in the survey records as well as in the Note of EDC dated 06.09.2022 (Annexure-V) the number of the Jhuggi against which the Appellant/Claimant has sought alternative allotment was not mentioned inadvertently & by mistake inspite of the facts that the Appellant/Claimant had tendered documents and the photographs taken at the time of survey by the survey team have been annexed with the survey records wherein the address is mentioned to be F-117, Jailorwala Bagh, Ashok Vihar. The Rejection order was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-U) wherein the address of the Appellant/Claimant as well as the number of Jhuggi against which she has allegedly claimed allotment from DDA has been mentioned to be "C-117".

17. DDA has furnished survey records along with one video clip of Jhuggi No. F-117. As per survey records the survey was got conducted by the Appellant/Claimant of her Jhuggi No. F-117 (N-207/206) on 08.03.2021 on the ground floor of the said Jhuggi and the photograph of her son Virender and also of various documents of the Appellant/Claimant are also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as details of family members is mentioned therein. Further, at the time of conducting of survey / videography the Appellant / Claimant was very much

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present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

18. DDA has furnished survey records along with one video clip pertaining to the Jhuggi No. F-117. The video clip prepared by the survey team of DDA was played before the Appellant/Claimant when her statement was recorded before us on 10.05.2024 wherein she has stated that the video clip pertains to the Jhuggi No. F-117 (N-207/206) in which from outside the said Jhuggi is clearly seen to be a double storey structure and a bamboo ladder is seen placed outside in the gali and used for going to the upper floor and further, the Appellant/Claimant is seen and getting the survey conducted and further her room & kitchen on the ground floor are also seen. Further, she is also seen holding a slate in her hand on which **"F-117 (N-207/206) PARAM DEI G+1"** is clearly seen to have been written.

19. Dilshad Ahemad, Assistant Director, has also admitted the correctness & genuineness of the survey records as well as the video clip pertaining to Jhuggi F-117 (N-207/206), which were prepared by the survey team of DDA and he has corroborated the statement of the Appellant/Claimant with regard to the existence of the double storey Jhuggi bearing number F-117 (N-207/206) and also with regard to the present Appellant/Claimant along with her family having found to be living separately & independently in Jhuggi No. F-117 (N-207/206) and further, the Appellant/Claimant is seen and getting the survey conducted and further her room & kitchen on the ground floor are also seen. Further, she is also seen holding a slate in her hand on which **"F-117 (N-207/206) PARAM DEI G+1"** is clearly seen to have been written and these facts are also corroborated by the facts reflected in the EDC Notes dated 06.09.2022 (Annexure-V) wherein the existence of Jhuggi of the Appellant/Claimant is not disputed by DDA.

20. It is admitted in the course of arguments that there was no proper mechanism to give numbers to the dwelling units/Jhuggis in Jailorwala Bagh, Ashok Vihar. Pradhan of the RWA had come with an idea to give numbers to the Jhuggis and this was consented by all the dwellers. Therefore, the numbers on almost all the Jhuggis were given by the Pradhan/dwellers of their own without following any settled pattern. The procedure was not streamlined as some of the Jhuggis were given the same numbers. Further in the fire several Jhuggis of Jailor Wala Bagh, Ashok Vihar were destroyed about 20 years ago and the Jhuggis engulfed in the fire were reconstructed and even the numbers of Jhuggis were changed

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thereby giving new numbers to the freshly re-constructed Jhuggis. This led to changing of Jhuggi numbers in majority of cases and accordingly some of the documents bear old addresses whereas new documents were got issued by the dwellers on the new addresses even though the Jhuggi remained same but it bears different old & new numbers. Furthermore, DDA had conducted survey in different stages spread to long interval and number plates giving the "Names of the owner & Number of the Jhuggis" were affixed. Different survey numbers were given by DDA and video clippings were also prepared. In view of the matter the dwellers cannot be penalized because their Jhuggis bore different numbers at different time.

21. The bare perusal of the Survey records as well as the Note of EDC dated 06.09.2022 (Annexure-V) and the Rejection Order dated 01.07.2023 (Annexure-U) shows that DDA has no where disputed about the existence of Jhuggi of the Appellant/Claimant but her claim was rejected on the sole grounds that that she has been found to have claimed allotment against the Upper floor and further her Voter ID Card could not be verified 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). However, it has been rightly pointed out that in the survey records as well as in the Note of EDC dated 06.09.2022 (Annexure-V) the number of the Jhuggi against which the Appellant/Claimant has sought alternative allotment was not mentioned inadvertently & by mistake inspite of the facts that the Appellant/Claimant had tendered documents and the photographs taken by the survey team at the time of survey have been annexed with the survey records wherein the address of the Appellant/Claimant is mentioned to be Jhuggi No. F-117, Jailorwala Bagh, Ashok Vihar. It is also pointed out that in the Rejection order dated 01.07.2023 (Annexure-U) the address of the Appellant/Claimant as well as the number of Jhuggi against which she has allegedly claimed allotment from DDA has been wrongly mentioned to be "C-117". However, the Documents tendered by the Appellant/Claimant along with her representation made to DDA as well as photographs of the documents taken by the survey team of DDA clearly shows that there is no such confusion with regard to the number of the Jhuggi regarding which the Appellant/Claimant has sought allotment from DDA was bearing Jhuggi No. F-117 (N-207/206) and it is wrongly mentioned to be Jhuggi No. C-117 in the Rejection order dated 01.07.2023 (Annexure-U).

22. The statement of the Appellant/Claimant has been fully corroborated by the video clips tendered by DDA and it shows that the double storey Jhuggi of the Appellant/Claimant regarding which she has claimed allotment from DDA was previously bearing number N-

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207/206 but subsequently the number was changed to F-117 and accordingly in some documents the address is recorded to be Jhuggi No. F-117 whereas in other documents the address is recorded to be Jhuggi No. N-207/206 and in some of the documents as Jhuggi No. F-117 (N-207/206) but all these numbers pertain to the one and the same double storey Jhuggi of the Appellant/Claimant bearing Jhuggi No. F-117 (N-207/206) regarding which she has claimed allotment from DDA. The Appellant/Claimant had tendered her documents with the representation made by her to DDA thereby annexing documents issued on the address of Jhuggi No. F-117. Furthermore, the survey team of DDA had also taken the photographs of these documents thereby showing that these documents have been issued on the address of Jhuggi No. F-117 thereby corroborating the stand taken by the Appellant/Claimant that her Jhuggi was bearing Jhuggi No. F-117. As already pointed out above DDA has furnished one video clip pertaining to the Jhuggi No. F-117 (N-207/206), which was prepared by the survey team of DDA in which from outside the said Jhuggi is clearly seen to be a double storey structure and further the Appellant/Claimant is seen and getting the survey conducted and she is also seen holding a slate in her hand on which **"F-117 (N-207/206) PARAM DEI G+1"** is clearly seen to have been written. This shows that the Appellant/Claimant has sought allotment from DDA against the double storey Jhuggi No. F-117 (N-207/206). This clearly supports the stand taken by the Appellant/Claimant that previously her Jhuggi was bearing number N-207/206 but subsequently the number was changed to F-117 and accordingly in some documents the address is recorded to be Jhuggi No. F-117 whereas in other documents the address is recorded to be Jhuggi No. N-207/206 and in some of the documents as Jhuggi No. F-117 (N-207/206) and that is why in the video clip made by the survey team of DDA **"F-117 (N-207/206) PARAM DEI G+1"** was written and accordingly there is no such confusion with regard to the number of the Jhuggi regarding which the Appellant/Claimant has sought allotment from DDA was bearing Jhuggi No. F-117 (N-207/206). Thus the surveys records along with the video clip placed on file corroborates the statement of the Appellant/Claimant that her family is having double storey Jhuggi No. F-117 (N-207/206) in Jailorwala Bagh, Ashok Vihar. Further, the material placed on file also shows that in the double storey Jhuggi No. F-117 (N-207/206) the Appellant/Claimant along with her family is living separately & independently and regarding that the Appellant/Claimant has sought allotment from DDA but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 248 of 2024 before the Appellate Authority for redressal.

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23. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the double storey Jhuggi No. F-117 (N-207/206). Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. F-117 (N-207/206) was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the same for residential purposes.

24. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. F-117 (N-207/206) was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

25. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the double storey Jhuggi No. F-117 (N-207/206) as per the policy guidelines issued by DDA.

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

27. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter iD Card & a separate Ration

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Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-201/39.G dated 01.07.2023.

28. 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."

29. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

30. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those

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12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

31. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

32. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

34. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

35. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

36. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

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FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

38. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

39. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

40. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various

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States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

41. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ

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

42. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

43. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

46. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

48. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

49. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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

51. It is pointed out that we have already held that the double storey Jhuggi No. F-117 (N-207/206) was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

52. It is also pointed out that we have already held that the survey records placed on file shows that the Jhuggi No. F-117 of the Appellant/ Claimant was found to exist but her claim was rejected by EDC on 06.09.2022 on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified 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). Further, it has also been pointed out that the bare perusal of the EDC Note dated 06.09.2022 (Annexure-V) also shows that it is no where disputed by DDA as far as the existence of the Jhuggi No. F-117 (N-207/206) of the Appellant/ Claimant and further also that the Appellant/ Claimant along with her family living there separately & independently and using it for residential purposes is concerned but her claim was rejected on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). The fact as to whether the Appellant/ Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further

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whether her name also appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) shall now be discussed in detail herein below by us.

53. Now we shall appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the double storey Jhuggi No. F-117 (N-207/206) as per the policy guidelines issued by DDA.

54. The Appellant/Claimant has tendered her two Voter ID Cards (Annexure-B & Annexure-C), Aadhar Card (Annexure-D), Letter No. F. No. AERO/AC-17/2024/165 dated 01.05.2024 (Annexure-M) issued by AERO, AC-17, Wazirpur, Voter List of the year 2012 (Annexure-N), Voter List of the year 2013 (Annexure-O), Voter List of the year 2014 (Annexure-P), Voter List of the year 2015 (Annexure-Q), Voter List of the year 2018 (Annexure-R), Voter List of the year 2019 (Annexure-S) & Voter List of the year 2020 (Annexure-T) in support of her claim.

55. It is pointed out that the Appellant/Claimant has tendered her two Voter ID Cards (Annexure-B & Annexure-C). It is pointed out that the first Voter ID Card (Annexure-B) is bearing number DL/04/053/270279 (Annexure-B) and it has been issued on 03.08.1995, much prior to the cutoff date of 01.01.2015 and in that her name is mentioned to be Param Devi and the address is mentioned to be N-207/206. The Aadhar Card No. 8746 7665 4958 (Annexure-D) of the Appellant/Claimant has been issued on 24.10.2013, much prior to the cutoff date of 01.01.2015 and in that her name is mentioned to be Param Dei and the address is mentioned to be F-117. Furthermore, the Appellant/Claimant has tendered the Letter No. F. No. AERO/AC-17/2024/165 dated 01.05.2024 issued by AERO, AC-17, Wazirpur (Annexure-M) thereby verifying that the Voter ID Card No. DL/04/053/270279 (Annexure-B) of the Appellant/Claimant is a valid document as per the records of the Election Commission and further this Voter ID Card has been reflected in the Voter Lists of the years from 2012 to 2015 as well as in the Voter Lists of the years from 2018 & 2019.

56. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 1098 in the Voter List of the year 2012 (Annexure-N), at Sl. No. 1098 in the Voter List of the year 2013 (Annexure-O), at Sl. No. 1242 in the Voter List of the year 2014 (Annexure-P), at Sl. No. 1433 in the Voter List of the year 2015 (Annexure-Q), at Sl. No. 569 in the Voter List of the year 2018 (Annexure-R) and at Sl. No. 580 in the Voter List of the year 2019 (Annexure-S).

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57. It is also pointed out that in all the Voter Lists (Annexure-N to Annexure-S) the number of the Voter ID Card of the Appellant/Claimant has been mentioned to be DL/04/053/270279 and the address of the Appellant/Claimant is mentioned to be Jhuggi F-117. This shows that initially the name of the Appellant/Claimant was mentioned to be "Param Devi" in the Voter ID Card on the address of Jhuggi No. N-207/206 but subsequently the name was changed to "Param Dei" and address was changed from Jhuggi No. N-207/206 to Jhuggi F-117 and that is why in the Voter Lists (Annexure-N to Annexure-S) the number of the Voter ID Card of the Appellant/Claimant has been mentioned to be DL/04/053/270279 but the address of the Appellant/Claimant is mentioned to be Jhuggi F-117 and her name is mentioned to be "Param Dei". On the same basis in the Aadhar Card No. 8746 7665 4958 dated 24.10.2013 (Annexure-D) of the Appellant/Claimant her name is mentioned to be "Param Dei" and the address is mentioned to be F-117. Further, we have already pointed out that there is no confusion with regard to the number of the Jhuggi, regarding which the Appellant/Claimant has sought allotment from DDA, was bearing Jhuggi No. F-117 (N-207/206) as previously it was bearing Jhuggi No. N-207/206 and subsequently the number was changed to F-117.

58. It is also pointed out that as per the survey records placed on file the Appellant/Claimant Param Dei has sought allotment from DDA against the Jhuggi No. F-117 and further her Jhuggi was surveyed/videographed and in the video clip prepared by survey team of DDA, the Appellant/Claimant is seen and getting the survey conducted against the Jhuggi No. F-117 (N-207/206) and further, she is also seen and holding a slate in her hand on which **"F-117 (N-207/206) PARAM DEI G+1"** is clearly seen to have been written and this shows that there is no dispute with regard to the identity of the Jhuggi regarding which the Appellant/Claimant has been claiming allotment from DDA as she has claimed allotment from DDA against the Jhuggi No. F-117 (N-207/206) but due to some clerical/typographical error, in the Rejection Order dated 01.07.2023 (Annexure-U), the address as well as the number of the Jhuggi regarding which the Appellant/Claimant has been claiming allotment from DDA is wrongly mentioned to be "C-117" Jailorwala Bagh instead of "F-117 (N-207/206)". However, the Appellant/Claimant has no role to play in wrong mentioning of Jhuggi to be "C-117" Jailorwala Bagh instead of "F-117 (N-207/206) and accordingly this inadvertent mistake made by DDA does not goes to the root of the case and the claim of the Appellant/Claimant cannot be rejected on this ground.

59. It is pointed out that the second Voter ID Card (Annexure-C) is bearing No. WHC 3333804

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and it has been issued on 18.11.2019 on the address of the Jhuggi No. F-117. The name of Appellant/Claimant appears at Sl. No. 588 in the Voter List of the years 2020 (Annexure-T) and the number of his Voter ID Card is mentioned to bearing number WHC 3333804. Furthermore, in the Voter ID Card No. WHC 3333804 dated 18.11.2019 (Annexure-C) as well as in the in the Voter List of the years 2020 (Annexure-T) the address of the Appellant/Claimant is mentioned to be Jhuggi No. F-117 regarding which she has been claiming allotment from DDA.

60. Furthermore, the Appellant/Claimant has satisfactorily explained the reasons for issuance of second Voter ID Card No. WHC 3333804 dated 18.11.2019 (Annexure-C) wherein she has stated that the series of old black & white series was discontinued and in its place new colored series was issued by the Election Commission. This shows that the Appellant/Claimant had got the second Voter ID Card No. WHC 3333804 dated 18.11.2019 (Annexure-C) issued after the first Voter ID Card No. DL/04/053/270279 dated 03.08.1995 (Annexure-B) was discontinued by the Election Commission. This document gives credence to the claim put forward by the Appellant/Claimant that she has been continuously living in the Jhuggi, which was previously bearing Jhuggi No. N-207/206 and later on the number was changed to Jhuggi No. F-117 and/or F-117(N-207/206) since much prior to the cutoff date of 01.01.2015 and up till the issuance of the Voter ID Card No. WHC 3333804 dated 18.11.2019 (Annexure-C).

61. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the first Voter ID Card No. DL/04/053/270279 dated 03.08.1995 (Annexure-B) and the Aadhar Card No. 8746 7665 4958 dated 21.10.2013 (Annexure-D) of the Appellant/Claimant have been issued much prior to the cutoff date of 01.01.2015 and her name is recorded to be "Param Devi". Furthermore, the Letter No. F. No. AERO/AC-17/2024/165 dated 01.05.2024 (Annexure-M) issued by AERO, AC-17, Wazirpur has also verified that the Voter ID Card No. DL/04/053/270279 (Annexure-B) of the Appellant/Claimant is a valid document as per the records of the Election Commission and further this Voter ID Card has been reflected in the Voter Lists of 2012 to 2015 as well as from 2018 to 2020. Furthermore, the name of the Appellant / Claimant appears at Sl. No. 1098 in the Voter List of the year 2 012 (Annexure-N), at Sl. No. 1098 in the Voter List of the year 2013 (Annexure-O), at Sl. No. 1242 in the Voter List of the year 2014 (Annexure-P), at Sl. No. 1433 in the Voter List of the year 2015 (Annexure - Q), at Sl. No. 569 in the Voter List

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of the year 2018 (Annexure-R) and at Sl. No. 580 in the Voter List of the year 2019 (Annexure-S). Furthermore, in the second Voter ID Card No. WHC 3333804 dated 18.11.2019 (Annexure-C) of the Appellant/Claimant the address is mentioned to be bearing Jhuggi No. F-117 and her name is recorded to be "Prema Devi" and the name of Appellant/Claimant appears at Sl. No. 588 in the Voter List of the years 2020 (Annexure-T) and the number of his Voter ID Card is mentioned to bearing number WHC 3333804. It is also pointed out that in the document (Annexure-B) the address of the Appellant/Claimant is mentioned to be N-207/206 but in all the above mentioned documents (Annexure-C, Annexure-D and Annexure-N to Annexure-T) the address of the Appellant/Claimant is mentioned to be Jhuggi No. 117 regarding which she has been claiming allotment from DDA.

62. As per our discussion above, the material placed on file shows that previously the Jhuggi of the Appellant/Claimant was bearing Jhuggi No. N-207/206 but subsequently the number was changed to F-117. But in the Rejection Order dated 01.07.2023 the address of the Appellant/Claimant is wrongly mentioned to be bearing Jhuggi C-117 and the reason for rejection is mentioned to be **"Voter ID not verified/upper floor"**. It is pointed out that the survey records placed on file shows that the Appellant/Claimant has sought allotment form DDA against the Jhuggi No. F-117 (N-207/206) and in some of the documents, the number of her Jhuggi is mentioned to be N-207/206 and in some of the documents the number of her Jhuggi is mentioned to be F-117 and in the records of DDA as shown in the video clip prepared by the survey team it is shown to be bearing No. F-117 (N-207/206) but all these documents pertains to the double storey Jhuggi No. F-117 (N-207/206) of the Appellant/Claimant regarding which she is claiming allotment from DDA because as already pointed out DDA has not disputed about the existence of the Jhuggi of the Appellant/Claimant but her claim was rejected on the sole ground that she was not having requisite documents on the cutoff date of 01.01.2015.

63. It is pointed out that the first Voter ID Card No. DL/04/053/270279 dated 03.08.1995 (Annexure-B) and the Aadhar Card No. 8746 7665 4958 dated 21.10.2013 (Annexure-D) of the Appellant/Claimant have been issued much prior to the cutoff date of 01.01.2015. Furthermore, the Letter No. F. No. AERO/AC-17/2024/165 dated 01.05.2024 (Annexure-M) issued by AERO, AC-17, Wazirpur has also verified that the Voter ID Card No. DL/04/053/270279 (Annexure-B) of the Appellant/Claimant is a valid document as per the records of the Election Commission and further this Voter ID Card has been reflected in the Voter Lists of the years from 2012 to 2015 as well as in the years 2018 & 2019. Furthermore,

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the name of the Appellant/Claimant appears at Sl. No. 1098 in the Voter List of the year 2012 (Annexure-N), at Sl. No. 1098 in the Voter List of the year 2013 (Annexure-O), at Sl. No. 1242 in the Voter List of the year 2014 (Annexure-P), at Sl. No. 1433 in the Voter List of the year 2015 (Annexure-Q), at Sl. No. 569 in the Voter List of the year 2018 (Annexure-R) and at Sl. No. 580 in the Voter List of the year 2019 (Annexure-S). Furthermore, in the second Voter ID Card No. WHC 3333804 dated 18.11.2019 (Annexure-C) of the Appellant/Claimant the address is mentioned to be bearing Jhuggi No. F-117 and the name of Appellant/Claimant appears at Sl. No. 588 in the Voter List of the years 2020 (Annexure-M) and the number of his Voter ID Card is mentioned to bearing number WHC 3333804. It is also pointed out that in all the Voter Lists (Annexure-N to Annexure-S) the number of the Voter ID Card of the Appellant/Claimant has been mentioned to be DL/04/053/270279 and in the Voter List (Annexure-T) the number of the Voter ID Card of the Appellant/Claimant has been mentioned to be WHC 3333804. Further, in the documents (Annexure-B) the address of the Appellant/Claimant is mentioned to be N-207/206 but in all the above mentioned documents (Annexure-B, Annexure-C and Annexure-N to Annexure-T) the address of the Appellant/Claimant is mentioned to be N-F-117 and we have already pointed out that there is no confusion with regard to the number of the Jhuggi, regarding which the Appellant/Claimant has sought allotment from DDA, was bearing Jhuggi No. F-117 (N-207/206) as previously it was bearing Jhuggi No. N-207/206 and subsequently the number was changed to F-117. Therefore, we have no hesitation in holding that the Appellant/Claimant was having a Voter ID Card & Aadhar Card on the cutoff date of 01.01.2015 and further her name also appears continuously in the voter list of the year's 2012 to 2020.

64. Now we shall appraise the material placed on file to determine as to whether there are documents placed on file to shows that the Appellant/Claimant along with her family was living in Jhuggi No. F-117 (N-207/206) since long and more particularly on the cutoff date of 01.01.2015 and whether the family members of the Appellant/Claimant have got the documents issued in their favour prior to the cutoff date of 01.01.2015 to lent support to the claim put forward by the Appellant/Claimant.

65. The Appellant/Claimant has also tendered the Passbook of Indian Overseas Bank (Annexure-E), Electricity Bill (Annexure-F), two Ration Cards (Annexure-H & Annexure-I), Report downloaded from Internet (Annexure-I), Voter ID Card No. DL/04/053/270278 (Annexure-

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K), Aadhar Card No. 9810 1124 2410 (Annexure-L) of her husband Raja Ram, in support of her claim.

66. It is pointed out that the Passbook of Indian Overseas Bank (Annexure-E) shows that Appellant/ Claimant has opened the account on 19.03.2015 and in this document her name bearing her photograph is recorded to be "Param Devi" and the address is mentioned to be Jhuggi N-207/206. The Electricity Bill (Annexure-F) shows that the electricity connection has been taken by the Appellant/Claimant on 12.03.2009 and in this document her name is recorded to be "Param Dei" and the address is mentioned to be Jhuggi N-207/206.

67. Furthermore, the Appellant/Claimant has tendered two Ration Cards (Annexure-G & Annexure-H). The old Ration Card (Annexure-G) is bearing No. BPL 53040015 and it has been issued in favour of her husband Raja Ram on 02.07.2008, much prior to the cutoff date of 01.01.2015 and the name of the Appellant/Claimant is mentioned therein to be "Paramdei Devi". Further, the new Ration Card (Annexure-H) is bearing No. 077002555661 and it has been issued in favour of the Appellant/Claimant and the name of the Appellant/Claimant is mentioned therein to be "Param Dei" and further the name of the family members is mentioned and the address is mentioned to be Jhuggi N-207/206 but the date of issuance is not mentioned therein. Furthermore, the report downloaded from the internet (Annexure-I) shows that the Appellant/Claimant had applied for issuance of Ration Card (Annexure-H) on 06.04.2014, much prior to the cutoff date of 01.01.2015 but it was finally issued by the concerned authority on 18.12.2020.

68. The Appellant/Claimant has also tendered the Voter ID Card No. DL/04/053/270278 (Annexure-K) of her husband Raja Ram and the address is mentioned to be Jhuggi N-207/206 and it has been issued on 03.08.1995, much prior to the cutoff date of 01.01.2015. Furthermore, the Aadhar Card of Raja Ram is Annexure-L and the address is mentioned to be Jhuggi F-117. It is pointed out that the Voter ID Card (Annexure-K) of Raja Ram has been issued Jhuggi N-207/206 whereas his Aadhar Card (Annexure-L) has been issued on the address of the Jhuggi No. F-117, Jailorwala Bagh, regarding which the Appellant/Claimant is claiming allotment from DDA. All these documents also corroborate the stand of the Appellant/Claimant that she along with her family has been continuously living in the Jhuggi, which was previously bearing Jhuggi No. N-207/206 and later on the number was changed to Jhuggi No. F-117 since long and much prior to the Cutoff date of 01.01.2015.

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69. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the Appellant/Claimant has also tendered the Passbook of Indian Overseas Bank (Annexure-E) which shows that Appellant/ Claimant has opened the account on 19.03.2015 and in this document her name bearing her photograph is recorded to be "Param Devi". The Electricity Bill (Annexure-F) shows that the electricity connection has been taken by the Appellant/Claimant on 12.03.2009 and in this document her name is recorded to be "Param Dei". Furthermore, the Appellant/Claimant has tendered two Ration Cards (Annexure-G & Annexure-H). The old Ration Card No. BPL 53040015 (Annexure-G) and it has been issued in favour of her husband Raja Ram on 02.07.2008 and the name of the Appellant/Claimant is mentioned therein to be "Paramdei Devi". Further, the new Ration Card No. 077002555661 (Annexure-H) has been issued in favour of the Appellant/Claimant and the name of the Appellant/Claimant is mentioned therein to be "Param Dei" but the date of issuance is not mentioned therein but the report downloaded from the internet (Annexure-I) shows that the Appellant/Claimant had applied for issuance of Ration Card on 06.04.2014 but it was finally issued by the concerned authority on 18.12.2020. The Appellant/Claimant has also tendered the Voter ID Card No. DL/04/053/270278 dated 03.08.1995 (Annexure-K) of her husband Raja Ram. Further in all the documents the address is mentioned to be Jhuggi N-207/206 whereas in his Aadhar Card Raja Ram (Annexure-L) the address is mentioned to be Jhuggi F-117.

70. The Appellant/Claimant has tendered Voter ID Cards & Aadhar Cards belonging to her and also of her family members, Electoral Rolls, Bank Passbook of Indian Overseas Bank, Electricity Bill and Ration Cards etc. and all these documents have been issued from the years 1995 to 2020 and it accordingly amply establishes that she as well as her family members have been living in the double storey Jhuggi No. F-117 (N-207/206), Jailorwala Bagh, Ashok Vihar, since long and more particularly on the cutoff date of 01.01.2015 and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

71. As already pointed out, DDA has furnished the survey records along with video clip pertaining to the Jhuggi No. F-117 (N-207/206) and in that video clip the Jhuggi No. F-117 (N-207/206) is clearly seen to be a double storey structure from outside and further the room & kitchen Jhuggi of the Appellant/ Claimant is clearly seen. The Jhuggi of the Appellant/ Claimant was also found to exist by the survey team as reflected in the EDC Note dated 06.09.2022 (Annexure-V). It is pertinent to point out that DDA has not disputed about the existence of Jhuggi No. F-117 (N-207/206) of the Appellant/Claimant but her claim was

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rejected wrongly by the EDC on the grounds that her Voter ID Card could not be verified and her name does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) inspite of the fact that as per our discussion above it has been found by us that the Appellant/Claimant was having a Voter ID Card & Aadhar Card on the cutoff date of 01.01.2015 and further her name also appears continuously in the voter list of the year's 2012 to 2020 and further she was having second document out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 but it was wrongly ignored by EDC.

72. The material placed on file shows that the Appellant/ Claimant was living separately & independently in the double storey Jhuggi No. F-117 (N-207/206) and further as per our discussion above, the documents placed on file shows that the Appellant/Claimant was having a valid Voter ID Cards (Annexure-B & Annexure-C) & Aadhar Card (Annexure-D) and the documents (Annexure-B & Annexure-D) have been issued much prior to the cutoff date of 01.01.2015 and her name also appears in the voter list of the year's 2012 to 2020 (Annexure-N to Annexure-T) and furthermore, these documents also corroborates that the Appellant/Claimant along with her family was living in Jhuggi No. F-117 (N-207/206), regarding which she is claiming allotment from DDA, much prior to the cutoff date of 01.01.2015. In addition to that her husband Raja Ram (since deceased) was also having the Voter ID Card (Annexure-K) & Aadhar Card (Annexure-L) and his Voter ID Card had been issued much prior to the cutoff date of 01.01.2015. Further, the old Ration Card No. BPL 530400153 (Annexure-G) was issued in favour of her husband and the name of the Appellant/Claimant is mentioned and it was issued issued much prior to the cutoff date of 01.01.2015. Further new Ration Card No. 077002555661 (Annexure-H) has been issued in favour of the Appellant/Claimant and as per the report (Annexure-I) downloaded from Internet even though it was approved on 18.12.2020 but it was applied on 06.04.2014 much prior to the cutoff date of 01.01.2015. The Passbook of Indian Overseas Bank (Annexure-E) shows that the Appellant/Claimant had opened the account on 19.03.2015. Furthermore, the Electricity Bill (Annexure-F) shows that the Appellant/Claimant had taken electricity connection on 12.03.2009 much prior to the cutoff date of 01.01.2015 and it is covered as one of the documents in the list of the 12 documents as enlisted in Clause 2 of the DDA policy, 2015. This shows that the Appellant/Claimant was having a valid Voter ID Card & Aadhar 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

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and further she was also having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. In the light of our detailed discussion, we have no hesitation in holding that the Appellant/ Claimant was having all the requisite documents and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

73. 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 policy guidelines issued by DDA. But the Eligibility Determination Committee has wrongly and illegally rejected her claim. Hence the present appeal No. 248 of 2024 stands allowed, hereby, setting aside the impugned order communicated vide order bearing No. 350-201/39.G dated 01.07.2023 issued by the Nodal Officer. DDA is hereby directed to make allotment in favour of Appellant/ Claimant, Appellant/ Claimant Param Dei @ Param Devi @ Prema Devi @Paramdei Devi W/o Raja Ram, in respect of the double storey Jhuggi No. F-117 (N-207/206), Jailorwala Bagh, Ashok Vihar.

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

18/7/2024 (Ranbir Singh)

(Satish Ahlawat) 18/7/2024

18/7/2024 (Rachna Tiwary)

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

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

Appeal No: 03 of 2024

Date of Institution: 28.04.2023

Date of Order: 25.07.2024

Present: Appellant/ Claimant Brijesh Kumar S/o Brij Nath

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. F-160, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. F-160 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has

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rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-83/23.1 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 03 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhe Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 18.04.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-S, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. F-160 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of Jhuggi No. F-160 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Brijesh Kumar has been recorded before us on 18.04.2024 wherein he has stated that his parents, Brijnath & Sheela, are having three sons, Ajay, Vijay & Brijesh and three daughters, Sharda, Sarita & Rita. All the children except Ajay are married. Sharda is married with Umesh and she is living in her matrimonial home at

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Wazirpur Industrial Area, Delhi. Sarita is married with Suraj and she is living on rent in her matrimonial home in Jailorwala Bagh, Ashok Vihar. Rita is married with Parmanand and she is living in her matrimonial home in Jhuggi No. D-24, Jailorwala Bagh, Ashok Vihar. Vijay is married with Kajal on 28.05.2022 and they are not having any issues. Brijesh (Appellant/Claimant) is married with Kiran and having three daughters, Vinita, Jhanvi & Tanishka.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. F-160 in Jailorwala Bagh, Ahok Vihar and it comprises of one room on the ground floor and two rooms on the first floor and a pucca staircase has been constructed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that his parents, Brijnath & Sheela, along with their unmarried son Ajay are living on the ground floor of the Jhuggi No. F-160 and regarding that DDA has made allotment in favour of his mother Sheela. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that his brother, Vijay along with his wife Kajal is living in the first room on the first floor of the Jhuggi No. F-160 but he has not sought alternative allotment from DDA against his Jhuggi on the first floor.

12. The Appellant/Claimant has stated that he along with his wife Kiran and all the three daughters Vinita, Jhanvi & Tanishka, is living in the second room on the first floor of the said Jhuggi No. F-160. The Appellant/Claimant has sought allotment from DDA against the second room on the first floor of the said Jhuggi No. F-160 but his claim has been rejected by the Eligibility Determination Committee on the ground that he has been found to have claimed allotment against the upper floor in spite of the fact that he has admittedly sought allotment from DDA against the upper floor and further he is having all the requisite documents as per the policy guidelines issued by DDA and accordingly aggrieved by the same he has filed the present Appeal No. 03 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-S in support of his claim and prayed that DDA be directed to make allotment in his favour.

13. DDA has furnished survey records along with three video clips of Jhuggi No. F-160. As per survey records the survey was got conducted by the Appellant/Claimant, of Jhuggi No. F-160 on 17.03.2020 on the first floor of the said Jhuggi and his photograph & that of his family

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members are also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducting of survey/videography the Appellant/Claimant, was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

14. DDA has furnished the survey records along with two video clips of Jhuggi No. F-160. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 18.04.2024 wherein the Appellant/Claimant has stated the first video clip pertains to the ground floor of Jhuggi No. F-160 in which his mother Sheela is seen on the ground floor and getting the survey conducted and further, her room & kitchen are seen and she is also heard stating that her son & daughter-in-law, are living on the upper floor and further, she is also seen holding a slate in her hand on which **"F-160 SHEELA GF"** is seen to have been written. The second video clip pertains to the first floor of the Jhuggi No. F-160 in which the Appellant/Claimant is seen and getting the survey conducted on the first floor and further, his room & kitchen are seen and the first floor is having roof made with asbestos sheet and further, he is seen holding a slate in his hand on which **"F-160 BRIJESH KUMAR FF"** is seen to have been written.

15. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case about the existence of the double storey Jhuggi No. F-160. Thus the statement of the Appellant/Claimant and the survey records has duly proved that the double storey Jhuggi No. F-160 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and his parents, Brijnath & Sheela, along with their unmarried son Ajay are living on the ground floor of the said double storey Jhuggi No. F-160 and regarding that DDA has made allotment in favour of his mother Sheela whereas his brother, Vijay, along with his wife Kajal is living in the first room on the first floor of the Jhuggi No. F-160 but he has not sought alternative allotment from DDA against his Jhuggi on the first floor and further the Appellant/Claimant along with his wife Kiran and all the three daughters Vinita, Jhanvi & Tanishka, is living in the second room on the first floor of the said double storey Jhuggi No. F-160 and is using the same for residential purposes.

16. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. F-160 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still living on the first floor of the said

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double storey Jhuggi No. F-160 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi.

17. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of the said double storey Jhuggi No. F-160 as per the policy guidelines issued by DDA.

18. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-S, in support of his claim and prayed that DDA be directed to make allotment against the first floor of the said double storey Jhuggi No. F-160 in his favour.

19. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-83/23.1 dated 01.07.2023.

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

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"Part-B

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

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

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

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

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

21. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

22. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

23. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of

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01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

24. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

26. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

27. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment

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against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

28. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

29. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development**

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Authority" in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

30. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

31. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

32. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used

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as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

33. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

34. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility

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criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

35. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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

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to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

40. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

41. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-

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2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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

43. It is pointed out that we have already held that the double storey Jhuggi No. F-160 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still living on the first floor of the said double storey Jhuggi No. F-160 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the first floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

44. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor of the said double storey Jhuggi No. F-160 as per the policy guidelines issued by DDA.

45. The Appellant/Claimant has tendered his Voter ID Card No. WHC 1650019 (Annexure-A), Aadhar Card (Annexure-B), Letter dated 05.04.2024/08.04.2024 (Annexure-O) of AERO, AC-17, Wazirpur, Voter List of the year 2012 (Annexure-P), Voter List of the year 2013 (Annexure-Q), Voter List of the year 2014 (Annexure-R) and Voter List of the year 2015 (Annexure-S) in support of his claim.

46. It is pointed out that the Voter ID Card No. WHC1650019 (Annexure-A) of the Appellant/Claimant has been issued on 20.04.2009, much prior to the cutoff date 01.01.2015. The Appellant/Claimant has tendered Aadhar Card No. 2936 6043 6910 (Annexure-B) and it has been issued on 20.07.2021, much after the cutoff date 01.01.2015. Furthermore, the Letter F.No. AERO/AC-17/2024 dated 05.04.25024/08.04.2024 (Annexure-O) of AERO, AC-17, Wazirpur shows that the Voter ID Card No. WHC 1650019 (Annexure-A)

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of the Appellant/Claimant is a valid document as per the records of the Election Commission and further, this Voter ID Card No. WHC 1650019 (Annexure-A) of the Appellant/Claimant has been reflected in the Voter Lists of the years from 2012 to 2015.

47. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 1180 in the Voter List of the year 2012 (Annexure-P), at Sl. No. 1180 in the Voter List of the year 2013 (Annexure-Q), at Sl. No. 1334 in the Voter List of the year 2014 (Annexure-R) and at Sl. No. 1533 in the Voter List of the year 2015 (Annexure-S). Furthermore, in all the Voter Lists (Annexure-P to Annexure-S), the number of the Voter ID Card is mentioned to be WHC 1650019 (Annexure-A) and furthermore in all the above documents (Annexure-A, Annexure-B and Annexure-P to Annexure-S) the address is mentioned to be Jhuggi No. F-160 regarding which the Appellant/Claimant is seeking allotment from DDA.

48. Therefore, we have no hesitation in holding that the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and further his name also appears in the voter list of the year's 2012, 2013, 2014 and 2015.

49. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. F-160 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered Ration Card No. 077002578578 (Annexure-M), which has been issued in favour of his mother Sheela on 16.12.2014 and the name of the Appellant/Claimant as well as his wife Kiran have been mentioned. The Appellant/Claimant has stated that he had applied for issuance of separate Ration card in his name but the same was declined by the concerned department because he was having joint Ration Card issued in favour of his mother Sheela. However, no documents are placed on file to substantiate his claim that he has made application for issuance of separate Ration Card but it was declined by the concerned department because he was having joint Ration Card with his mother as no application made by the Appellant/Claimant and the rejection order are not placed on file. The fact remains that the Appellant/Claimant was not having a separate Ration Card issued on the address of the first floor of the Jhuggi No. F-160, regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

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50. The Appellant/Claimant has tendered the Voter ID Card No. WHC 2155595 (Annexure-C) & Aadhar Card (Annexure-D) of his wife Kiran, Driving License (Annexure-E) of the Appellant/Claimant, Disability Certificate (Annexure-F) of his daughter Jhanvi, Aadhar Cards (Annexure-G to Annexure-I) of his daughters, Jhanvi, Vinita & Tanishka, the Passbook of PNB (Annexure-J), the Electricity Bill (Annexure-K), the Passbook of Canara Bank (Annexure-L) and Registration Slip of construction worker (Annexure-N) in support of his claim.

51. It is pointed out that the Voter ID Card No. WHC 2155595 (Annexure-C) of his wife Kiran has been issued on 04.04.2015, much after the cutoff date 01.01.2015 and accordingly the question of her name appearing in the Voter List of the years 2012 to 2015 does not arise. Further, her Aadhar Card No. 4899 5817 0661 (Annexure-D) has been issued on 11.06.2013, much prior to the cutoff date 01.01.2015. The Driving License (Annexure-E) of the Appellant/Claimant has been issued on 21.12.2011. The Disability Certificate (Annexure-F) of his daughter Jhanvi has been issued on 23.02.2024, much after the cutoff date 01.01.2015. The Appellant/Claimant has also tendered Aadhar Cards (Annexure-G to Annexure-I) of his daughters, Jhanvi, Vinita & Tanishka. The date of issuance of Aadhar Card (Annexure-H) of his daughter Vinita is not mentioned but Aadhar Card (Annexure-G) of Jhanvi has been issued on 21.12.2014 and Aadhar Card (Annexure-I) of his daughter Tanishka has been issued on 06.07.2023. The Passbook of PNB (Annexure-J) shows that his wife Kiran had opened the account on 23.09.2014. The Electricity Bill (Annexure-K) also shows that the electricity connection has been taken by his wife Kiran on 09.06.2017, much after the cutoff date 01.01.2015. The Passbook of Canara Bank (Annexure-L) shows that the Appellant/Claimant had opened the account on 23.03.2011. Furthermore, the Registration Slip of construction worker (Annexure-N) has been issued by Construction Worker Welfare Board (CWWB) in favour of his wife Kiran on 06.01.2022, much after the cutoff date 01.01.2015 and further the address of Kiran is not mentioned.It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. F-160 regarding which he has been claiming allotment from DDA, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

53. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. F-160, Jailorwala Bagh, regarding which he is claiming allotment from DDA in spite of the fact that he is claiming allotment from DDA against the upper floor, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-S, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

54. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim.

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There is no infirmity and illegality in the impugned order bearing No. 350-83/23.1dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

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

Appeal No: 61 of 2024

Date of Institution: 12.07.2023

Date of Order: 24.07.2024

Present: Appellant/ Claimant Sheetal Arora W/o Vivek Arora

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. H-208, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. H-208 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-10/52.1 dated

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01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 61 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhe Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 12.04.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-T, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. H-208 was found to exist but she had failed to submit required documents, i.e., Voter ID Card & a separate Ration Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. H-208 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Sheetal Arora has been recorded before us on 12.04.2024 wherein she has stated that her parents, Meva Lal & Ram Dulari, are having one son; Sanjay and three daughters; Gita, Madhu, & Sheetal. Meva Lal had expired about thirty years ago whereas Ram Dulari had expired in the year 2009. All the children are married. Sanjay is married with Nirmala and having four children; Gautam, Kajal, Rekha & Sagar. Gita

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is married with Ravinder and having two children and she is living in her matrimonial home in Wazirpur, Delhi. Madhu is married with Sajiwan and having two children and she is living on rent in her matrimonial home in Jailorwala Bagh. Sheetal Arora (Appellant/Claimant) was married with Vivek and having two children; Tanisha & Ankit but Vivek had deserted her about nine years ago and he has married another lady and now living in Bengaluru.

9. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. H-208, Jailorwala Bagh, Ashok Bihar and it comprises of one room on each floor and an iron ladder is placed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that her brother Sanjay along with his wife Nirmala and all the four children is living on the ground floor of the Jhuggi No. H-208 and regarding that DDA has made allotment in favour of Sanjay. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that she along with both her children; Tanisha & Ankit is living on the first floor of the said Jhuggi No. H-208. The Appellant/Claimant has sought allotment from DDA against the first floor of the said double storey Jhuggi No. H-208 but her claim has been rejected by Eligibility Determination Committee on the ground that that she has ben found to have claimed allotment against the upper floor in spite of the fact that she is admittedly claiming allotment from DDA against the first floor of the Jhuggi No. H-208 and further she is having all the requisite documents as per policy guidelines issued by DDA and accordingly, aggrieved by the same, she has filed the present Appeal No. 61 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-T, in support of her claim and prayed that DDA be directed to make allotment in her favour.

12. DDA has furnished survey records along with two video clips of Jhuggi No. H-208. As per survey records the survey was got conducted on 18.03.2020 by the Appellant/Claimant of Jhuggi No. H-208 and her photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducting of survey/videography the Appellant/Claimant was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

13. DDA has furnished survey record along with two video clips pertaining to the Jhuggi No. H-208. The video clips were played before the Appellant/Claimant when her statement was

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recorded before us on 12.04.2024 wherein she has stated that the first video clip pertains to the ground floor of the Jhuggi No. H-208 in which her brother Sanjay along with his wife Nirmala is seen and getting the survey conducted and further their room & kitchen are also seen and Sanjay is also seen holding a slate in his hand on which **"H-208 SANJAY G/F"** is clearly seen to have been written and the said Sanjay is also heard thereby stating that his sister is living on the first floor of the said Jhuggi. The second video clip pertains to the first floor of the Jhuggi No. H-208 in which the Appellant/Claimant is seen on the first floor of the Jhuggi No. H-208 and getting the survey conducted and further her room & kitchen are also seen. Further, she is also seen holding a slate in her hand on which **"H-208 SHEETAL ARORA F/F"** is clearly seen to have been written.

14. The Appellant/Claimant has tendered the Survey Record (Annexure-T) in which the name of the Appellant/Claimant is mentioned at Sl. No. 414 against the Survey No. 350/10/52.1 against the upper floor of the Jhuggi No. H-208 thereby showing that her Jhuggi existed on the first floor of the Jhuggi No. H-208 as per survey records of DDA.

15. There is nothing to disbelieve the statement of the Appellant/Claimant as the same has been duly corroborated by the survey records as well as the video clip prepared by the survey team to the effect that Jhuggi No. H-208 is a double storey pucca structure and further her brother Sanjay along with his family is living on the ground floor of the Jhuggi No. H-208 whereas the Appellant/Claimant along with both her children; Tanisha & Ankit, is living on the first floor of the Jhuggi No. H-208 and she has been using the same for residential purposes.

16. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. H-208 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still living on the first floor of the said double storey Jhuggi No. H-208 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi.

17. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a 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

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year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of the said double storey Jhuggi No. H-208 as per the policy guidelines issued by DDA.

18. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-T, in support of her claim and prayed that DDA be directed to make allotment against the first floor of the said double storey Jhuggi No. H-208 in her favour.

19. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-10/52.1dated 01.07.2023.

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.

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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.

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."

21. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

22. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

23. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

24. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

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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."

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

26. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

27. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or

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against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

28. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

30. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not

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amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

31. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

32. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

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33. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

34. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

35. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18

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years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

38. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also

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in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

40. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

41. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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

43. It is pointed out that we have already held that the double storey Jhuggi No. H-208 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still living on the first floor of the said

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double storey Jhuggi No. H-208 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the first floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

44. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor of the said double storey Jhuggi No. H-208 as per the policy guidelines issued by DDA.

45. The Appellant/Claimant has tendered her Voter ID Card No. WHC 2105303 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Letter No. F. No. AERO/AC-17/2024/138 dated 05.04.2024 (Annexure-J) issued by AERO, AC-17, Wazirpur, Voter List of the year 2014 (Annexure-K), Voter List of the year 2015 (Annexure-L), Voter List of the year 2016 (Annexure-M), Voter List of the year 2017 (Annexure-N), Voter List of the year 2018 (Annexure-O), Voter List of the year 2019 (Annexure-P) Voter List of the year 2020 (Annexure-Q), Voter List of the year 2022 (Annexure-R) & Voter List of the year 2023 (Annexure-S) in support of her claim.

46. It is pointed out that the Appellant/Claimant has tendered her Voter ID Card bearing number WHC 2105303 (Annexure-A) and it has been issued on 18.01.2014, much prior to the cutoff date of 01.01.2015. The Aadhar Card No. 7883 8555 5274 (Annexure-B) of the Appellant/Claimant has been issued on 30.03.2022, much after the cutoff date of 01.01.2015. Furthermore, the Appellant/Claimant has tendered the Letter No. F. No. AERO/AC-17/2024/138 dated 05.04.2024 (Annexure-J) issued by AERO, AC-17, Wazirpur thereby verifying that the Voter ID Card No. WHC 2105303 (Annexure-A) of the Appellant/Claimant is a valid document and further this Voter ID Card is reflected in the Voter List of the years 2014 to 2023.

47. It is also pointed out that the name of the Appellant/Claimant appears at Sl. No. 1447 in the Voter List of the year 2014 (Annexure-K), at Sl. No. 712 in the Voter List of the year 2015 (Annexure-L), at Sl. No. 733 in the Voter List of the year 2016 (Annexure-M), at Sl. No. 735 in the Voter List of the year 2017 (Annexure-N), at Sl. No. 758 in the Voter List of the year 2018

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(Annexure-O), at Sl. No. 760 in the Voter List of the year 2019 (Annexure-P), at Sl. No. 786 in the Voter List of the year 2020 (Annexure-Q), at Sl. No. 811 in the Voter List of the year 2022 (Annexure-R) & at Sl. No. 819 in the Voter List of the year 2023 (Annexure-S). Furthermore, in all the Voter Lists (Annexure-K to Annexure-S), the number of the Voter ID Card of the Appellant/Claimant has been mentioned to be WHC 2105303 and further in all the above mentioned documents (Annexure-A, Annexure-B and Annexure-K to Annexure-S) the address of the Appellant/Claimant is mentioned to be H-208, regarding which she is claiming allotment from DDA.

48. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. H-208 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2022 and 2023.

49. The Appellant/Claimant has admitted that she was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. H-208 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered an application for issuance of Ration Card (Annexure-G) in her favour. This application for issuance of Ration Card (Annexure-G) is undated but the fact remains that till now no Ration Card has been issued by the concerned competent authority in her favour. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. H-208, regarding which she is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

50. The Appellant/Claimant has also tendered the Aadhar Card (Annexure-D) & Voter ID Card No. WHC 3672532 (Annexure-E) of her daughter Tanisha, Electricity Bill (Annexure-F), Survey Receipt (Annexure-H) and Passbook of Bank of India (Annexure-I) in support of her claim.

51. It is pointed out that the Voter ID Card No. WHC 3672532 (Annexure-E) of Tanisha has been issued on 18.09.2023, much after the cutoff date of 01.01.2015 and accordingly the question of her name appearing in the Voter List of the years from 2012 to 2015 does not arise. Furthermore, the Aadhar Card No. 3824 8851 2698 (Annexure-D) of Tanisha has been issued on 06.04.2015, much after the cutoff date of 01.01.2015. The Electricity Bill (Annexure-F)

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shows that the electricity connection has been taken by the Appellant/Claimant on 30.10.2015, much after the cutoff date of 01.01.2015 and further the billing address is first floor of Jhuggi No. H-208 but the supply address is first floor of Jhuggi No. H-77, Jailorwala Bagh and accordingly this document is not relevant. It is also pointed out that the Appellant/Claimant has tendered the Survey Receipt (Annexure-H) thereby shows that the survey was conducted on 02.04.2009 but the name of the authority, which had conducted the survey is not mentioned. The Passbook of Bank of India (Annexure-I) shows that Appellant/ Claimant has opened the account on 10.09.2014, much prior to the cutoff date of 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. H-208 regarding which she has been claiming allotment from DDA, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

53. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 issued on the first floor of Jhuggi No. H-208 regarding which she is claiming allotment from DDA in spite of the fact that she is claiming allotment from DDA against the upper floor, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to

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the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-T, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

54. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-10/52.1 dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

55. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 12.07.20232passed by Hon'ble High Court of Delhi in WP(C) No. 6728/20232and C.M. Appeal 25594/20232titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) (Satish Ahlawat) (Rachna Tiwary)

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER CHAIRMAN **EXPERT MEMBER**

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

Appeal No: 72 of 2024

Date of Institution: 12.07.2023

Date of Order: 23.07.2024

Present: Appellant/ Claimant Rajiv Kumar S/o Gaya Prasad

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-92, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-92 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the

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Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-76/22.1 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 72 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhe Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 18.04.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-X, 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. Radhe Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-92 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of Jhuggi No. A-92 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Rajiv Kumar has been recorded before us on 18.04.2024 wherein he has stated that his parents, Gaya Prasad & Surja Devi, are having one son; Rajiv and four daughters; Mamta, Muna, Asha & Anita. Gaya Prasad had expired in the year 2007 whereas Surja Devi had expired in the year 2012. All the children are married.

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Mamta is married with Keshnath, Muna is married with Nanhelal and Anita is married with Radhe and all of them are living in their respective matrimonial homes in Azamgarh, Uttar Pradesh. Asha is married with Ramesh. Rajiv (Appellant/Claimant) is married with Neelam and having three children; Vaishnavi, Vansh & Ayush.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. A-92 and it comprises of one room on each floor and an iron ladder is placed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that his sister Asha along with her husband Ramesh is living on the ground floor of the Jhuggi No. A-92 and regarding that DDA has made allotment in favour of her husband Ramesh. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Neelam and all the three children; Vaishnavi, Vansh & Ayush, is living on the first floor of the Jhuggi No. A-92 and regarding that the Appellant/Claimant has sought allotment from DDA but his claim has been rejected by Eligibility Determination Committee on the ground that he has been found to have claimed allotment against the upper floor in spite of the fact that he has admittedly sought allotment against the first floor of the said Jhuggi No. A-92 and further he is having all the requisite documents as per policy guidelines issued by DDA and accordingly aggrieved by the same, he has filed the present Appeal No. 72 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-X, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished survey records along with three video clips of Jhuggi No. A-92. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. A-92 on 24.09.2020 on the first floor of the said Jhuggi and his photograph & that of his family members are also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducting of survey/videography the Appellant/Claimant, was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof

13. DDA has furnished survey record along with two video clips. The videos were played before the Appellant/Claimant when his statement was recorded before us on 18.04.2024 wherein

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he has stated that the first video clip pertains to the Jhuggi No. A-92 in which Jhuggi No. A-92 is clearly seen from outside to be a double storey pucca structure and an iron ladder placed outside in the gali is seen going from the ground floor to the upper floor and further, his brother-in-law, Ramesh, is seen and getting the survey conducted on the ground floor and he is also seen holding a slate in his hand on which **"A-92 RAMESH KUMAR G"** is clearly seen to have been written. The second video clip pertains to the first floor of the Jhuggi No. A-92 in which the Appellant/Claimant Rajiv Kumar along with his wife Neelam is seen and getting the survey conducted and further his room & kitchen on the first floor are also seen and further he is also seen holding a slate in his hand on which **"A-92 RAJEEV KUMAR FF"** is clearly seen to have been written.

14. The statement of the Appellant/Claimant is duly corroborated by the survey records as well as the video clips prepared by the survey team of DDA in which the Jhuggi No. A-92, Jailorwala Bagh is clearly seen to be a pucca double storey structure and it comprises of one room on each floor and further an iron ladder placed outside in the gali is used for going to the upper floor and further Asha (real sister of the Appellant/Claimant) along with her husband Ramesh is living on the ground floor of the Jhuggi No. A-92 and regarding that DDA has made allotment in favour of her husband Ramesh whereas the Appellant/Claimant Rajiv Kumar along with his wife Neelam and all the three children; Vaishnavi, Vansh & Ayush, is living on the first floor of the Jhuggi No. A-92 and has been using the same for residential purposes.

15. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case about the existence of the double storey Jhuggi No. A-92. Thus the statement of the Appellant/Claimant as well as the survey records & the video clips has duly proved that the double storey Jhuggi No. A-92 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and his brother-in-law, Ramesh, along with his wife Asha, is living on the ground floor of the said double storey Jhuggi No. A-92and regarding that DDA has made allotment in favour of Ramesh whereas the Appellant/Claimant along with his wife Neelam and all the three children; Vaishnavi, Vansh & Ayush, is living on the first floor of the said double storey Jhuggi No. A-92 and is using the same for residential purposes.

16. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-92 was in

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existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still living on the first floor of the said double storey Jhuggi No. A-92 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi.

17. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of the said double storey Jhuggi No. A-92 as per the policy guidelines issued by DDA.

18. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-X, in support of his claim and prayed that DDA be directed to make allotment against the first floor of the said double storey Jhuggi No. A-92 in his favour.

19. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-76/22.1 dated 01.07.2023.

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

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

"Part-B

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

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

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

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

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

21. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

22. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

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

the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

24. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

26. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

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dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

28. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

30. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

31. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

32. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore,

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even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

33. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the

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cut-off date, i.e., 01st January, 2015.

34. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

35. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

38. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

40. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

41. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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

43. It is pointed out that we have already held that the double storey Jhuggi No. A-92 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still living on the first floor of the said double storey Jhuggi No. A-92 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the first floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

44. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor of the said double storey Jhuggi No. A-92 as per the policy guidelines issued by DDA.

45. The Appellant/Claimant has tendered his Voter ID Card bearing No. WHC 1832400 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Letter No. F. No. AERO/AC-17/2024 dated 08.04.2024 (Annexure-N) of AERO, AC-17, Wazirpur, Voter List of the year 2013 (Annexure-O), Voter List of the year 2014 (Annexure-P) and Voter List of the year 2015 (Annexure-Q) in support of his claim.

46. It is pointed out that the Appellant/Claimant has tendered his Voter ID Card (Annexure-A)

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bearing No. WHC 1832400 and it has been issued on 16.01.2013, much prior to the cutoff date 01.01.2015. The Aadhar Card No. 9422 3317 9773 (Annexure-B) of the Appellant/Claimant has been issued on 08.12.2013. Further, the Appellant/Claimant has tendered the Letter No. F. No. AERO/AC-17/2024 dated 08.04.2024 (Annexure-N) of AERO, AC-17, Wazirpur in which the Voter ID Card No. WHC 1832400 (Annexure-A) of the Appellant/Claimant is verified to be a valid document as per the records of the Election Commission and further, it is also mentioned that this Voter ID Card No. WHC 1832400 appears in the Voter List of the year 2013 to 2015.

47. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 1404 in the Voter List of the year 2013 (Annexure-O), at Sl. No. 18 in the Voter List of the year 2014 (Annexure-P) and at Sl. No. 22 in the Voter List of the year 2015 (Annexure-Q).

48. It is also pointed out that in all the Voter Lists (Annexure-O to Annexure-Q), the number of the Voter ID Card of the Appellant/Claimant has been mentioned to be WHC 1832400 and further, in all the above mentioned documents (Annexure-A, Annexure-B, Annexure-O to Annexure-Q) the address of the Appellant/Claimant is mentioned to be A-92, Jailorwala Bagh, regarding which he is claiming allotment from DDA.

49. Therefore, we have no hesitation in holding that the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and further his name also appears in the voter list of the year's 2013, 2014 and 2015.

50. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-92 regarding which he is claiming allotment from DDA. The fact remains that the Appellant/Claimant was not having a separate Ration Card issued on the address of the first floor of the Jhuggi No. A-92, regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

51. The Appellant/Claimant has tendered the Voter ID Card bearing No. WHC 2010213 (Annexure-D) & Aadhar Card (Annexure-E) of his wife Neelam and Letter No. F. No. AERO/AC-17/2024/148 dated 13.04.2024 (Annexure-R) of AERO, AC-17, Wazirpur, the Aadhar Card (Annexure-F) of his daughter Vaishnavi, Aadhar Card (Annexure-G) of his son

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Vansh, Aadhar Card (Annexure-H) of his son Ayush, Birth Certificate (Annexure-I to Annexure-K) of his children; Vaishnavi, Vansh & Ayush, Passbook of SBI (Annexure-L) & Electricity Bill (Annexure-M) in support of his claim.

52. It is pointed out that the Appellant/Claimant has tendered the Voter ID Card (Annexure-D) bearing No. WHC 2010213 of his wife Neelam and it has been issued on 02.06.2014, much prior to the cutoff date 01.01.2015. The Aadhar Card No. 6482 5363 7934 (Annexure-E) of his wife Neelam has been issued on 30.03.2016, much after the cutoff date of 01.01.2015. Further, the Appellant/Claimant has tendered the Letter No. F. No./ AERO/AC-17/2024/148 dated 13.04.2024 issued by AERO, AC-17, Wazirpur (Annexure-R) in which the Voter ID Card No. WHC 2010213 (Annexure-D) of Neelam is verified to be a valid document as per the records of the Election Commission and further, it is also mentioned that her name appears in the Voter List of the year 2015 to 2020. Furthermore, the name of his wife Neelam appears at Sl. No. 317 in the Voter List of the year 2015 (Annexure-S), at Sl. No. 337 in the Voter List of the year 2016 (Annexure-T), at Sl. No. 350 in the Voter List of the year 2017 (Annexure-U), at Sl. No. 360 in the Voter List of the year 2018 (Annexure-V), at Sl. No. 387 in the Voter List of the year 2019 (Annexure-W) and at Sl. No. 386 in the Voter List of the year 2020 (Annexure-X). It is also pointed out that in all the Voter Lists (Annexure-S to Annexure-X), the number of the Voter ID Card of Neelam has been mentioned to be WHC 2010213 and further, in all the above mentioned documents (Annexure-D, Annexure-E, Annexure-S to Annexure-X) the address of Neelam is mentioned to be A-92, Jailorwala Bagh, regarding which the Appellant/Claimant is claiming allotment from DDA. It is pointed out that all the above-mentioned Aadhar Cards (Annexure-F to Annexure-H) of his children Vaishnavi, Vansh & Ayush have been issued on 13.09.2017, 22.11.2019 & 30.11.2021 respectively, much after the cutoff date of 01.01.2015. Furthermore, the Birth Certificates (Annexure-I) of Vaishnavi has been issued on 28.11.2019 whereas the Birth Certificate of Vansh (Annexure-J) has been issued on 28.11.2019 and the Birth Certificate (Annexure-K) of Ayush has been issued on 01.10.2020 and all these document have been issued much after to the cutoff date of 01.01.2015. Furthermore, the Passbook of SBI (Annexure-L) shows that the Appellant/Claimant has opened the account on 08.07.2013. The Electricity Bill (Annexure-M) shows that his wife Neelam had taken the electricity connection on 22.06.2022, much after to the cutoff date of 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right,

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title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. A-92 regarding which he has been claiming allotment from DDA, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

54. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. A-92, Jailorwala Bagh, regarding which he is claiming allotment from DDA in spite of the fact that he is claiming allotment from DDA against the upper floor, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-X, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per

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the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

55. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-76/22.1 dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

Appeal No: 221 of 2024

Date of Institution: 24.07.2023

Date of Order: 22.07.2024

Present: Appellant/ Claimant Kamlesh Devi W/o Raj Kumar

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

ORDER

1. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. N-207/447, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. N-207/447 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-64/11.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 221 of 2024 has been filed by the present Appellant/ Claimant.

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2. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhe Shyam Meena, Dy. Director.

3. The statement of the Appellant/Claimant has been recorded before us on 23.04.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-Z and Annexure-Z1 to Annexure-Z5, in support of her claim. In view of the letter bearing U.O. NO. F2(ISR)/AA/PMAY/37 dated 03.06.2024, whereby the observations made by Principal Commissioner (Housing) and worthy Vice Chairman, DDA have been annexed, the representatives of PMAY-ISR Department of DDA has also examined Sh. Dilshad Ahemad, Assistant Director, and his statement has also been recorded before us on 05.07.2024. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

4. Arguments advanced by the Appellant/Claimant as well as Sh. Radhey Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

5. It is the admitted fact that as per survey records, the Appellant / Claimant's Jhuggi bearing No. N-207/447 was found to exist but she had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternative allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

6. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. N-207/447 as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant Kamlesh has been recorded before us on 23.04.2024 wherein she has stated that she was married with Raj Kumar and having two

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sons; Arvind & Ajay and one daughter; Roshni. Raj Kumar has expired on 09.11.2019 and his Death Certificate is Annexure-Z. All the children are married. Arvind is married with Shanti and having two children; Khushi & Muskan. Ajay is married with Nitu and having two children; Kumkum & Ansh. Both Arvind & Ajay along with their respective familes are living in their native village in District Gorakhpur, Uttar Pradesh. Roshni is married with Satish and having one daughter Priyanshi and she is living with her parents in Jailorwala Bagh, Ashok Vihar.

8. The Appellant/Claimant has stated that her family is having a double storey Jhuggi bearing No. N-207/447, Jailorwala Bagh, Ashok Vihar. The Appellant/Claimant has stated that previously her Jhuggi was bearing number 207/447 but later on the number was changed to CN-102 and in the records of DDA it is shown to be bearing No. N-207/447, E- Block, Jailorwala Bagh, Ashok Vihar. The Appellant/Claimant has stated that the Jhuggi bearing old number 207/447 and new number CN-102 (N-207/447), E Block, Jailorwala Bagh, Ashok Vihar comprises of a small bathroom & a room/kitchen on the ground floor and one room on the first floor and a pucca staircase has been constructed outside in the gali and it is used for going to the upper floor.

9. The Appellant / Claimant has stated that she along with her husband Raj Kumar (until his death on 09.11.2019) as well as the family of her daughter Roshni is living in the double storey Jhuggi No. N-207/447. The Appellant / Claimant has sought allotment from DDA against the said Jhuggi No. N-207/447 but her claim has been rejected by Eligibility Determination Committee on the grounds that she has been found to have claimed allotment from DDA against the upper floor and further her Voter ID Card could not be verified in spite of the fact that she is admittedly claiming allotment against the said double storey Jhuggi No. N-207/447 and further she is having all the requisite documents as per policy guidelines issued by DDA and accordingly, aggrieved by the same, she has filed the present Appeal No. 221 of 2024 before the Appellate Authority for redressal. The Appellant / Claimant has also tendered documents, Annexure - A to Annexure - Z and Annexure -Z1 to Annexure -Z5, in support of her claim and prayed that DDA be directed to make allotment in her favour.

10. It is pointed out that DDA has also examined Dilshad Ahemad, Assistant Director, and his statement has also been recorded before us on 05.07.2024 wherein they have stated that the Appellant / Claimant is having a double storey

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Jhuggi in Jailorwala Bagh, Ashok Vihar bearing number N-207/447. The Appellant/Claimant Kamlesh has sought alternative allotment form DDA against the double storey Jhuggi No. N-207/447, Jailorwala Bagh, Ashok Vihar but her claim for alternative allotment was rejected by Eligibility Determination Committee on 11.12.2022 on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified 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) and further she was not having second document as she had allegedly failed to submit "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. The Rejection order was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not verified / Upper Floor"** but the third ground that she was not having second document as she had allegedly failed to submit "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 was not mentioned in the said rejection order under challenge in the present appeal. Aggrieved by the same, the Appeal No. 221 of 2024 has been filed by the present Appellant/ Claimant. Therefore, it is prayed that this Appellate Authority should take holistic view and legality of all the grounds as mentioned in the EDC Notes dated 11.12.2022 (Annexure-Z5) be thoroughly considered to independently determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she was having second document, i.e., "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the Jhuggi No. N-207/447 as per the policy guidelines issued by DDA.

11. DDA has furnished survey records along with one video clip of Jhuggi No. N-207/447. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. N-207/447 on 26.03.2020 on the ground floor of the said Jhuggi and her photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant is mentioned therein. Further, at the time of conducting of survey/videography the Appellant/Claimant was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

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12. DDA has furnished survey records along with one video clip. The video was played before the Appellant/Claimant when her statement was recorded before us on 23.04.2024 wherein she has stated that the video clip pertains to the Jhuggi No. N-207/447 in which the Jhuggi is clearly seen to be a double storey structure from outside and further the Appellant/Claimant Kamlesh is seen and getting the survey conducted and further, her room/kitchen as well as the small bathroom on the ground floor is seen and further, she is also seen holding a state in her hand on which **"E-102 (N-207/447) KAMLESH DEVI G+1"** is clearly seen to have been written. Further, the Appellant/Claimant is also heard thereby stating that her Jhuggi is a double storey structure and her family is living in the said double storey Jhuggi.

13. Dilshad Ahemad, Assistant Director, has also admitted the correctness & genuineness of the survey records as well as the video clip pertaining to Jhuggi N-207/447, which were prepared by the survey team of DDA and he has corroborated the statement of the Appellant/Claimant with regard to the existence of the double storey Jhuggy bearing number N-207/447 and also with regard to the present Appellant/Claimant along with her family having found to be living separately & independently in Jhuggi No. N-207/447 and these facts are also reflected in the EDC Notes dated 11.12.2022 (Annexure-Z5).

14. As already pointed out the Appellant/Claimant has stated that her family is having a double storey Jhuggi bearing No. N-207/447, Jailorwala Bagh, Ashok Vihar. The Appellant/Claimant has specifically stated that previously her Jhuggi was bearing number 207/447 but later on the number was changed to CN-102 and in the records of DDA it is shown bearing No. N-207/447, E- Block, Jailorwala Bagh, Ashok Vihar. It is admitted in the course of arguments that there was no proper mechanism to give numbers to the dwelling units/Jhuggis in Jailor Wala Bagh, Ashok Vihar. Pradhan of the respective community had come with an idea to give numbers to the Jhuggis and this was consented by all the dwellers. Therefore, the numbers on almost all the Jhuggis were given by the Pradhan/dwellers of their own without following any settled pattern. The procedure was not streamlined as some of the Jhuggis were given the same numbers. Further in the fire several Jhuggis of Jailor Wala Bagh, Ashok Vihar were destroyed about 20 years ago and the Jhuggis engulfed in the fire were reconstructed and even the numbers of Jhuggis were changed thereby giving new numbers to the freshly re-constructed Jhuggis. This led to changing of Jhuggi numbers in majority of

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cases and accordingly some of the documents bear old addresses whereas new documents were got issued by the dwellers on the new addresses even though the Jhuggi remained same but it bears different old & new numbers. Furthermore, DDA had conducted survey in different stages spread to long interval and number plates giving the "Names of the owner & Number of the Jhuggis" were affixed. Different survey numbers were given by DDA and video clippings were also prepared. In view of the matter the dwellers cannot be penalized because their Jhuggis bore different numbers at different time. Therefore, there is nothing to disbelieve that the double storey Jhuggi of the Appellant/Claimant was bearing old number 207/447 and new number CN-102 and in the records of DDA it is shown bearing No. N-207/447, E- Block, Ashok Vihar especially when DDA has not disputed about the existence of the double storey Jhuggi No. N-207/447 of the Appellant/Claimant, which comprises of a small bath room & a room/kitchen on the ground floor and one room on the first floor and a pucca staircase has also been constructed outside in the gali and it is used for going to the upper floor.

15. Thus the surveys records along with the video clip placed on file corroborates the statement of the Appellant/Claimant that her family is having double storey Jhuggi N-207/447 in Jailorwala Bagh, Ashok Vihar. Further, the material placed on file also shows that in the double storey Jhuggi No. N-207/447 the Appellant/Claimant along with her family is living separately & independently and regarding that the Appellant/Claimant has sought allotment from DDA but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 221 of 2024 before the Appellate Authority for redressal.

REJECTION OF REPRESENTATION BY EDC VIDE ORDER DATED 11.12.2024

16. Now we shall appraise the material placed on file to show as to how the EDC had proceeded to deal with the claim and more particularly as to whether it was swayed by irrelevant matter or it has determined the claim of the Appellant/ Claimant fairly & independently.

17. It is not disputed that the claim of the Appellant/ Claimant was placed before the Eligibility Determination Committee (hereinafter called EDC). It is pertinent to point out that the claim of the Appellant / Claimant was rejected by EDC on 11.12.2022 and the Nodal Officer, duly communicated its order bearing No. 350-64/11.G dated 01.07.2023 to the present Appellant/Claimant and the EDC Note dated 11.12.2022 (Annexure-Z5) is

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reproduced for better understanding of the facts and the grounds on which the claim of the present Appellant/ Claimant was rejected, as under: -

EDC Note dated 11.12.2022 (Annexure-Z5)

> *"1. While examining the present case for determination of eligibility, it was observed that there was some deficiency in the requisite documents as per policy guidelines. In this regard, a Public Notice was issued on 14.03.2022 for organised a camp from 01.06.2022 to 15.06.2022 at DDA site office Jailor wala site office, Ashok Vihar, Delhi-52. Wherein, the applicant/ claimant to give him/her an opportunity for submission of required documents. The applicant failed to submit requisite documents in spite of opportunity. As per survey record, the applicant jhuggi existed on Ground and the policy guidelines for alternate allotment in cases of Ground is as under:*
>
> *2.As per policy guidelines, Part –B The eligibility criteria for allotment of alternative dwelling units for rehabilitation and relocation of JJ dwellers would be as under: - The name of JJ dwellers must appear in at least one of the Voter Lists of the Year's 2012,2013,2014,2015 (Prior to 01.01.2015) and also in the year of survey, for the purpose of rehabilitation. However, name of the applicant does not appear in voter lists of year 2012,2013,2014 and 2015 (prior to 01.0-1.2015) the voter card number DL/04.053/270839 Submitted by the applicant not found valid.*
>
> *3. As per policy guidelines, Part –B(Clause –VI) the eligibility criteria for allotment of alternative dwelling units for rehabilitation and relocation of jj dwellers would be as under – jj dwellers must possess any one of the twelve documents issued before 01.01.2015 as prescribed in the subsequent para. The applicant fails to submit a second document in support of his claim.*
>
> *4. The applicant/claimant have also failed to submit second document in support of his claim hence: the applicant/claimant does not fulfil the eligibility criteria."*

18. The survey records placed on file shows that the Jhuggi No. N-207/447 of the Appellant/ Claimant was found to exist but her claim was rejected by EDC on 11.12.2022 on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified 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) and further she was not having second document as she had allegedly failed to submit "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

However, it is pertinent to point out that the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is

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mentioned to be **"Voter Card Not verified / Upper Floor"** but the ground that she was not having second document as she had allegedly failed to submit "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 was not mentioned in the said rejection order under challenge before us.

19. It seems that the ground that she was not having second document as she had allegedly failed to submit "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 might have been left due to clerical/typographical mistake. However, by taking holistic approach we shall discuss all the legal points in the later part of this order to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she was having second document, i.e., "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the Jhuggi No. N-207/447 as per the policy guidelines issued by DDA.

20. The bare perusal of the Note dated 11.12.2022 (Annexure-Z5) also shows that it is no where disputed by DDA as far as the existence of the Jhuggi No. N-207/447 of the Appellant/ Claimant and the Appellant/ Claimant along with her family living there separately & independently and using it for residential purposes is concerned but her claim was rejected on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified 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) and further she was not having second document as she had allegedly failed to submit "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. The fact as to whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she was having a valid Voter ID Card on the cutoff date of 01.01.2015 and her name appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) shall be discussed in detail by us in the later part of this order. Thus the fact remains that as per the stand of DDA the Appellant/ Claimant was having a separate dwelling unit bearing double storey Jhuggi No. N-207/447 except that she was allegedly not having all the requisite documents.

21. There is nothing to disbelieve the statement of the Appellant/Claimant on the material

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aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the double storey Jhuggi No. N-207/447. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. N-207/447 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the same for residential purposes.

22. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. N-207/447 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

23. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the double storey Jhuggi No. N-207/447 as per the policy guidelines issued by DDA.

24. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-Z and Annexure-Z1 to Annexure-Z5, in support of her claim and prayed that DDA be directed to make allotment in her favour.

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

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allotment against the upper floor but she is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further 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 and further the Appellant/ Claimant was not having any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-64/11.G dated 01.07.2023.

26. 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."

27. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

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GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

28. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

29. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

30. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

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

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the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

33. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

34. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect

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with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

36. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

37. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure

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that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

38. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

39. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration

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card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

40. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

41. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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

44. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

46. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

47. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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

49. It is pointed out that we have already held that the double storey Jhuggi No. N-207/447 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

50. It is also pointed out that we have already held that the survey records placed on file shows that the Jhuggi No. N-207/447 of the Appellant/ Claimant was found to exist but her claim was rejected by EDC on 11.12.2022 on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified and further her name also does not appear in the voter list

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of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and further she was not having second document as she had allegedly failed to submit "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Further, it has also been pointed out that the bare perusal of the EDC Note dated 11.12.2022 (Annexure-Z5) also shows that it is no where disputed by DDA as far as the existence of the Jhuggi No. N-207/447 of the Appellant/ Claimant and the Appellant/ Claimant along with her family living there separately & independently and using it for residential purposes is concerned but her claim was rejected on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified 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) and further she was not having second document as she had allegedly failed to submit "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. The fact as to whether the Appellant/ Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further whether her name also appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and further she was not having second document and having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 shall now be discussed in detail herein below by us.

51. Now we shall appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the double storey Jhuggi No. N-207/447 as per the policy guidelines issued by DDA.

52. The Appellant/Claimant has tendered her three Voter ID Cards (Annexure-A to Annexure-C), Aadhar Card (Annexure-F), PAN Card (Annexure-G), Letter No. F. No.AERO/AC-17/2023 Dated 10.01.2024 (Annexure-J) issued by AERO, AC-17, Wazirpur, Voter List of the year 2008 (Annexure-K), Voter List of the year 2009 (Annexure-L), Voter List of the year 2010 (Annexure-M), Voter List of the year 2011 (Annexure-N), Voter List of the year 2012 (Annexure-O), Voter List of the year 2013 (Annexure-P), Voter List of the year 2014

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(Annexure-Q), Voter List of the year 2015 (Annexure-R), Voter List of the year 2016 (Annexure-S), Voter List of the year 2017 (Annexure-T), Voter List of the year 2018 (Annexure-U), Voter List of the year 2019 (Annexure-V), Voter List of the year 2020 (Annexure-W), Voter List of the year 2022 (Annexure-X) and Voter List of the year 2023 (Annexure-Y) in support of her claim

53. It is pointed out that the Appellant/Claimant has tendered her three Voter ID Cards (Annexure-A to Annexure-C). The first Voter ID Card is bearing number DL/04/053/270839 (Annexure-A) and it has been issued on 23.05.1998, much prior to the cutoff date of 01.01.2015 and further this Voter ID Card has been issued on the address of the Jhuggi No. 207/447, Jailorwala Bagh.

54. It is pointed out that the Second Voter ID Card (Annexure-B) & third Voter ID Card (Annexure-C) of the Appellant/Claimant are bearing the same number i.e. JPF 0681742 and both have been issued on the same address i.e. Jhuggi No. CN-102, E-Block, Jailorwala Bagh and further, the first Voter ID Card (Annexure-B) has been issued on 08.06.2002 whereas the third Voter ID Card (Annexure-C) has been issued on 01.01.2011 thereby showing that both Voter ID Cards have been issued much prior to the cutoff date of 01.01.2015. The Appellant/Claimant has also tendered her Aadhar Card No. 9596 5830 3815 (Annexure-F) and it has been issued on the address of Jhuggi No. CN-102, E-Block, Jailorwala Bagh on 19.09.2011, much prior to the cutoff date 01.01.2015.

55. The Appellant/Claimant has also tendered the Letter No. F. No. AERO/AC-17/2023 Dated 10.01.2024 (Annexure-J) issued by AERO, AC-17, Wazirpur thereby showing that as per the records available with the Election Commission, the Appellant/Claimant Kamlesh is having a Voter ID Card No. JPF 0681742 (Annexure-B & Annexure-C) and these are valid documents as per the records of the Election Commission and further she had also used this Voter ID Card to cast vote as reflected in the Voter List of the years from 2008 to 2023.

56. Furthermore, it is pointed out that the name of the Appellant/Claimant appears at Sl. No. 807 in the Voter List of the year 2008 (Annexure-K), at Sl. No. 864 in the Voter List of the year 2009 (Annexure-L), at Sl. No. 903 in the Voter List of the year 2010 (Annexure-M), at Sl. No. 912 in the Voter List of the year 2011 (Annexure-N), at Sl. No. 811 in the Voter List of the year 2012 (Annexure-O), at Sl. No. 811 in the Voter List of the year 2013 (Annexure-P), at Sl. No. 834 in the Voter List of the year 2014 (Annexure-Q), at Sl. No. 961 in the Voter List of the year 2015 (Annexure-R), at Sl. No. 36 in the Voter List of the year 2016 (Annexure-

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S), at Sl. No. 37 in the Voter List of the year 2017 (Annexure-T), at Sl. No. 38 in the Voter List of the year 2018 (Annexure-U), at Sl. No. 38 in the Voter List of the year 2019 (Annexure-V), at Sl. No. 40 in the Voter List of the year 2020 (Annexure-W), at Sl. No. 41 in the Voter List of the year 2022 (Annexure-X) and at Sl. No. 41 in the Voter List of the year 2023 (Annexure-Y).

57. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the Appellant/Claimant has tendered documents, Annexure-A to Annexure-Z and Annexure-Z1 to Annexure-Z5, in support of her claim. Her first Voter ID Card No. DL/04/053/270839 dated 23.05.1998 (Annexure-A) has been issued on the address of the Jhuggi No. 207/447, Jailorwala Bagh on 23.05.1998. The Second Voter ID Card dated 08.06.2002 (Annexure-B) & third Voter ID Card dated 01.01.2011 (Annexure-C) of the Appellant/Claimant are bearing the same number i.e. JPF 0681742 and both have been issued on the same address i.e. Jhuggi No. CN-102, E-Block, Jailorwala Bagh. The Aadhar Card No. 9596 5830 3815 dated 19.09.2011 (Annexure-F) of the Appellant/Claimant has been issued on the address of Jhuggi No. CN-102, E-Block, Jailorwala Bagh. Furthermore, the Letter No. F. No. AERO/AC-17/2023 Dated 10.01.2024 (Annexure-J) issued by AERO, AC-17, Wazirpur also verifies the correctness & genuineness of the Voter ID Card No. JPF 0681742 (Annexure-B & Annexure-C) of the Appellant/Claimant to be valid documents as per the records of the Election Commission and these Voter Cards are reflected in the Voter Lists of the years from 2008 to 2023. Further the name of the Appellant/Claimant appears at Sl. No. 807 in the Voter List of the year 2008 (Annexure-K), at Sl. No. 864 in the Voter List of the year 2009 (Annexure-L), at Sl. No. 903 in the Voter List of the year 2010 (Annexure-M), at Sl. No. 912 in the Voter List of the year 2011 (Annexure-N), at Sl. No. 811 in the Voter List of the year 2012 (Annexure-O), at Sl. No. 811 in the Voter List of the year 2013 (Annexure-P), at Sl. No. 834 in the Voter List of the year 2014 (Annexure-Q), at Sl. No. 961 in the Voter List of the year 2015 (Annexure-R), at Sl. No. 36 in the Voter List of the year 2016 (Annexure-S), at Sl. No. 37 in the Voter List of the year 2017 (Annexure-T), at Sl. No. 38 in the Voter List of the year 2018 (Annexure-U), at Sl. No. 38 in the Voter List of the year 2019 (Annexure-V), at Sl. No. 40 in the Voter List of the year 2020 (Annexure-W), at Sl. No. 41 in the Voter List of the year 2022 (Annexure-X) and at Sl. No. 41 in the Voter List of the year 2023 (Annexure-Y).

58. A per our discussion above, the material placed on file shows that previously the Jhuggi of

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the Appellant/Claimant was bearing Jhuggi No. 207/447 but subsequently the number was changed to CN-102 and in the records of DDA it is shown bearing No. N-207/447, E- Block, Ashok Vihar and that is why in the Survey records of DDA as well as in the Rejection Order dated 01.07.2023 the address of the Appellant/Claimant is mentioned to be bearing Jhuggi N-207/447. It is also pointed out that as per the Survey List (Annexure-Z-1) maintained by DDA, the name of the Appellant/Claimant is mentioned to at Sl. No. 347 and her address is mentioned to be "N-207/447" and the reason for rejection is mentioned to be **"Voter ID not verified/upper floor"**. It is pointed out that the survey records placed on file shows that the Appellant/Claimant has sought allotment form DDA against the Jhuggi No. N-207/447 and in some of the documents, the number of her Jhuggi is mentioned to be 207/447 and in some of the documents the number of her Jhuggi is mentioned to be CN-102 and in the records of DDA it is shown bearing No. N-207/447, E- Block, Ashok Vihar but all these documents pertains to the double storey Jhuggi No. N-207/447 of the Appellant/Claimant regarding which she is claiming allotment rom DDA because as already pointed out DDA has not disputed about the existence of the Jhuggi of the Appellant/Claimant bearing Jhuggi No. N-207/447, E- Block, Ashok Vihar but her claim was rejected on the grounds that she was not having requisite documents on the cutoff date of 01.01.2015.

59. It is pointed out that in all the Voter Lists (Annexure-K to Annexure-Y), the Voter ID Card of the Appellant/Claimant has been mentioned to be JPF 0681742 and her address is also mentioned to be CN-102, E-Block, Jailorwala Bagh. The Appellant/Claimant has also tendered the Letter No. F. No. AERO/AC-17/2023 Dated 10.01.2024 (Annexure-J) issued by AERO, AC-17, Wazirpur thereby showing that as per the records available with the Election Commission, the Appellant/Claimant Kamlesh is having a Voter ID Card No. JPF 0681742 (Annexure-B & Annexure-C) issued much prior to the cutoff date of 01.01.2015 and she had also used this Voter ID Card to cast vote in the elections held in the years from 2008 to 2023 and this Voter ID Card is reflected in the Voter List of the years from 2008 to 2023 (Annexure-K to Annexure-Y). This Letter accordingly corroborates that the Appellant/Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further her name also continuously appears in the Voter List of the years from 2008 to 2023.

60. It is also pertinent to point out that the DUSIB policy has been adopted by DDA. The legal question as to whether the claim of JJ dweller is liable to be rejected solely because her

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name does not appear in Electoral Rolls of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey even though she was having a valid Voter ID Card on the cutoff date of 01.01.2015 and also in spite of the fact that she also possess other documents to corroborate her residence and existence in the concerned Jhuggi Jhopri basti was the matter directly involved in the matter before Hon'ble High Court of Delhi relating to the DUSIB policy, which had been adopted by DDA, and it has been dealt in the judgment of **Udal v. Delhi Urban Shelter Improvement Board and Ors[2] 2017 SCC OnLine Del 9715.**

61. It is pointed out that in Udal's case (supra) the Hon'ble High Court of Delhi has found that the petitioners have produced the documents, including the National Food Security Card, Ration Card, Gas/Oil Bill, Electricity Bill, BSES Meter Change Report, School Leaving Certificates, School Progress Report of Children, Report Card of Children, Aadhar Cards, Driving Licences, Passbooks, PAN Card, Death Certificate of the Spouse of one of the parties, LIC Policy but they could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy. The Hon'ble High court held as under: -

> *"33. .....Therefore, even though these petitioners could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy, however, if an holistic view is undertaken of the documentation as produced, it would amply establish the residence and existence of these persons at the Rajiv Camp for the periods from 1998 till 2016."*
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> *"38. Mr. Parvinder Chauhan, ld. Standing Counsel for respondent no.1 has staunchly contended that the requirement of Clause 1(iii) of Part-B of R& R Policy to the effect that the name of the person must feature in the electoral roll for any of the prescribed five years, is mandatory and the failure for the name to appear in such electoral roll must be fatal so far as consideration for allotment of alternative flat for rehabilitation under the R&R Policy is concerned. In the given facts and circumstances, we are unfortunately unable to agree with this submission. The records placed by these persons include National Food Security Cards, Ration Cards, Oil/Gas Bill, SC/ST Certificates, Electricity Bill, LIC Policies, Gas Connection Records and Bills, Driving Licences, Passbooks, Birth Certificate of Children as well as records of School Admission of Children, their Progress Report Cards, all of which show their continued existence on the spot. A realistic view has to be taken in this regard. We*

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find that the persons who were found ineligible were in possession of public identification including Voter ID - cards. The failure of the names of such persons to feature in the electoral roll could be for any number of reasons. The same could happen, if the person was not at home at the time the Booth Level Officer visited Jhuggi of the person concerned. This could be on account of the occupation of the person or for the person and adults of the family having left the Jhuggi for work. Obviously, the Booth Level Officer or any persons conducting the survey would not have met the adult members of the family. There would thus not be any adult members of the family to give the information for names to be included in the electoral rolls."

"40. We find that as per Clause 2 of PART - B of the R&R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents. In the above cases, the Jhuggi Jhopri dwellers have produced multiple records ranging to periods in the late 1990s till date. In this view of the matter, the persons detailed in paras 37 and 38 above are clearly entitled to the benefit of the policy. We are of the view that the ineligibility letter dated 22nd December, 2016 by the respondents have been issued to these persons because of a disjoint reading of Clause 1(iii) and Clause 2 of PART - B of the policy. The same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1(iii) and Clause 2 of Part-B of the R&R Policy, 2015."

62. Therefore, the present appeal is squarely covered by the facts of Udal's case (supra) decided by the Hon'ble High Court of Delhi wherein it has been held that as per Clause 2 of PART-B of the R & R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents and we cannot give a disjoint reading of Clause 1 (iii) and Clause 2 of PART – B of the policy but the same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1 (iii) and Clause 2 of PART-B of the R & R Policy, 2015.

63. On this aspect it is pertinent to point out that when the Jhuggi of the Appellant/Claimant is found to exist on the cutoff date of 01.01.2015 and she is also found to be having a Aadhar Card and also a valid Voter ID Card on the cutoff date of 01.01.2015 and also she possesses "any one" document out of the 12 documents issued before 01.01.2015 as enlisted in

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Clause 2 of the DDA policy, 2015 then her claim can not be rejected by taking hyper technical view especially when she was having a valid Voter ID Card dated 08.06.2002 (Annexure-B), Voter ID Card dated 01.10.2011 (Annexure-C) & Aadhar Card No. 9596 5830 3815 dated 19.09.2011 (Annexure-F) on the cutoff date of 01.01.2015 and further her name also appears continuously in the Voter Lists from the years 2008 to 2023 (Annexure-K to Annexure-Y) and she as well his family are having documents to show that they have been living in the said Jhuggi much prior to the cutoff date of 01.01.2015.

64. There is no dispute that the Appellant/Claimant is having a valid Voter ID Card JPF 0681742 dated 08.06.2002 (Annexure-B) & Voter ID Card JPF 0681742 dated 01.01.2011 (Annexure-C) and Aadhar Card No. 9596 5830 3815 dated 19.09.2011 (Annexure-F), which have been issued much prior to the cutoff date of 01.01.2015 and further her name also appear in the Voter List of the year 2008 (Annexure-K), Voter List of the year 2009 (Annexure-L), Voter List of the year 2010 (Annexure-M), Voter List of the year 2011 (Annexure-N), Voter List of the year 2012 (Annexure-O), Voter List of the year 2013 (Annexure-P), Voter List of the year 2014 (Annexure-Q), Voter List of the year 2015 (Annexure-R), Voter List of the year 2016 (Annexure-S), Voter List of the year 2017 (Annexure-T), Voter List of the year 2018 (Annexure-U), Voter List of the year 2019 (Annexure-V), Voter List of the year 2020 (Annexure-W), Voter List of the year 2022 (Annexure-X) and Voter List of the year 2023 (Annexure-Y). Therefore, we have no hesitation in holding that the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and further her name also appears continuously in the voter list of the year's 2008 to 2023.

65. Now we shall appraise the material placed on file to determine as to whether there are documents placed on file to shows that the Appellant/Claimant along with her family was living in Jhuggi No. N-207/447 since long and more particularly on the cutoff date of 01.01.2015 and whether the family members of the Appellant/Claimant have got the documents issued in their favour prior to the cutoff date of 01.01.2015 to lent support to the claim put forward by the Appellant/Claimant.

66. The Appellant/Claimant has tendered two Voter Id Cards (Annexure-D & Annexure-E) & Aadhar Card (Annexure-H) of her husband Raj Kumar as well as the Ration Card No. BPL 5317 1343 (Annexure-Z4), Ration Card No. 07702570453 (Annexure-I), Electricity Bill (Annexure-Z2) and Passbook of Indian Overseas Bank (Annexure-Z3) in support of her claim.

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67. It is pointed out that the Appellant/Claimant has tendered two Voter ID Cards (Annexure-D & Annexure-E) of her husband Raj Kumar. Both the Voter ID Cards of Raj Kumar are bearing the same number i.e. DL/04/053/270838. The first Voter ID Card (Annexure-D) has been issued on 23.05.1998 whereas the second Voter ID Card (Annexure-E) has been issued on 11.08.2002 and accordingly both the Voter ID Cards have been issued much prior to the cutoff date of 01.01.2015. It is pointed out that the first Voter ID Card (Annexure-D) of Raj Kumar has been issued on the address of Jhuggi No. 207/447 whereas the second Voter ID Card (Annexure-E) has been issued on the address of the Jhuggi No. CN-102, E-Block, Jailorwala Bagh. The Aadhar Card (Annexure-H) of her husband Raj Kumar is bearing No. 9621 3415 2419 has been issued on the address of Jhuggi No. N-207/447 on 18.09.2011, much prior to the cutoff date of 01.01.2015. It has already been pointed out that initially the Jhuggi of the Appellant/Claimant was bearing Jhuggi No. 207/447 but later on it was changed to Jhuggi No. CN-102 and in the records of DDA it is shown bearing No. N-207/447, E- Block, Ashok Vihar. Consequently both the husband & wife had initially got their respective Voter ID Cards (Annexure-A & Annexure-D) issued on the address of Jhuggi No. 207/447, Jailor Wala Bagh, Ashok Vihar because at that given point of time their Jhuggi was bearing No. 207/447 and thereafter they had got the number of their Jhuggi changed from bearing No. 207/447 to Jhuggi No. CN-102 and accordingly they had got their respective new Voter ID Cards (Annexure-B & Annexure-C and Annexure-E) issued on the new address of CN-102, E-Block, Jailorwala Bagh. Further, the Ration Card No. BPL 5317 1343 (Annexure-Z4) has been issued in the name of her husband Raj Kumar and the names of the Appellant/Claimant & her children are also mentioned and further the entries were reviewed on 25.11.2009, much prior to the cutoff date of 01.01.2015. The Ration Card (Annexure-I) is bearing No. 07702570453 and it has been issued in favour of the Appellant/Claimant on 10.10.2014, much prior to the cutoff date of 01.01.2015. The Electricity Bill (Annexure-Z2) shows that the electricity connection has been taken by her husband Raj Kumar and the bill date is mentioned to be 19.05.2010, much prior to the cutoff date of 01.01.2015. Further the Passbook of Indian Overseas Bank (Annexure-Z3) shows that the Appellant/Claimant had opened the account on 02.02.2011, much prior to the cutoff date of 01.01.2015. It is pointed out that all these documents also corroborate that the Appellant/Claimant along with her family members was living in the Jhuggi No. N-207/447 since long and much prior to the Cutoff date of 01.01.2015.

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68. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the Appellant/Claimant has tendered two Voter ID Cards (Annexure-D & Annexure-E) of her husband Raj Kumar and both the Voter ID Cards of Raj Kumar are bearing the same number i.e. DL/04/053/270838. The first Voter ID Card (Annexure-D) has been issued on 23.05.1998 on the address of Jhuggi No. 207/447 whereas the second Voter ID Card (Annexure-E) has been issued on the address of the Jhuggi No. CN-102, E-Block, Jailorwala Bagh on 11.08.2002 and thus his Voter ID Cards were issued much prior to the cutoff date of 01.01.2015. The Aadhar Card (Annexure-H) of her husband Raj Kumar is bearing No. 9621 3415 2419 and it has been issued on the address of Jhuggi No. CN-102 on 18.09.2011, much prior to the cutoff date of 01.01.2015. Further, the Ration Card No. BPL 5317 1343 (Annexure-Z4) has been issued in the name of her husband Raj Kumar and the names of the Appellant/Claimant and her children are also mentioned and further the entries were reviewed on 25.11.2009, much prior to the cutoff date of 01.01.2015. The Ration Card (Annexure-I) is bearing No. 07702570453 and it has been issued in favour of the Appellant/Claimant on 10.10.2014, much prior to the cutoff date of 01.01.2015. The Electricity Bill (Annexure-Z2) shows that the electricity connection has been taken by her husband Raj Kumar and the bill date is mentioned to be 19.05.2010, much prior to the cutoff date of 01.01.2015 and further the Appellant/Claimant had opened the account on 02.02.2011 as reflected in the Passbook of Indian Overseas Bank (Annexure-Z3), much prior to the cutoff date of 01.01.2015.

69. The Appellant/Claimant has tendered Voter ID Cards & Aadhar Cards belonging to her and also of her family members, Electoral Rolls, Bank Passbook of Indian Overseas Bank, Electricity Bill and Ration Cards etc. and all these documents have been issued from 2010 to 2015 and it accordingly amply establishes that she as well as her family members have been living in the double storey Jhuggi No. N-207/447, E- Block, Jailorwala Bagh, Ashok Vihar, since long and more particularly on the cutoff date of 01.01.2015 and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

70. As already pointed out, DDA has furnished the survey records along with video clip pertaining to the Jhuggi No. N-207/447 and in that video clip the Jhuggi No. N-207/447 is clearly seen to be a double storey structure from outside and further the room & kitchen Jhuggi of the Appellant/ Claimant is clearly seen. The Jhuggi of the Appellant/ Claimant

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was also found to exist by the survey team as reflected in the EDC Note dated 11.12.2022 (Annexure-Z5). It is pertinent to point out that DDA has not disputed about the existence of Jhuggi No. N-207/447 of the Appellant/Claimant but her claim was rejected wrongly by the EDC on the grounds that her Voter ID Card could not be verified and her name does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and further she was not having second document as she had allegedly failed to submit any "one out" of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 inspite of the fact that as per our discussion above it has been found by us that the Appellant/Claimant was having a Voter ID Card & Aadhar Card on the cutoff date of 01.01.2015 and further her name also appears continuously in the voter list of the year's 2008 to 2023 and further she was having second document out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 but it was wrongly ignored by EDC.

71. The material placed on file shows that the Appellant/ Claimant was living separately & independently in the double storey Jhuggi No. N-207/447 and further as per our discussion above, the documents, Annexure-A to Annexure-Z and Annexure- Z1 to Annexure-Z5, shows that the Appellant/Claimant was having a valid Voter ID Cards (Annexure-A to Annexure-C) & Aadhar Card (Annexure-F) on the cutoff date of 01.01.2015 and her name also appears in the voter list of the year's 2008 to 2023 (Annexure-K to Annexure-Y) and furthermore, these documents also corroborates that the Appellant/Claimant along with her family was living in Jhuggi No. N-207/447, regarding which she is claiming allotment from DDA, much prior to the cutoff date of 01.01.2015. In addition to that her husband Raj Kumar is also having the Voter ID Cards (Annexure-D & Annexure- E), which are bearing the same number i.e. DL/04/053/270838 and he is also having Aadhar Card (Annexure-H) and all these documents have been issued much prior to the cutoff date of 01.01.2015. Further, the Appellant/Claimant is having Ration Card No. BPL 5317 1343 (Annexure-Z4) and Ration Card No. 07702570453 (Annexure-I) and both the Ration cards have been issued much prior to the cutoff date of 01.01.2015. The Passbook of Indian Overseas Bank (Annexure-Z3) shows that the Appellant/Claimant had opened the account on 02.02.2011, much prior to the cutoff date of 01.01.2015. Furthermore, in the Electricity Bill (Annexure-Z2) the bill date is mentioned to be 19.05.2010 and it shows that the Appellant/Claimant had taken electricity connection much prior to the cutoff date of 01.01.2015 and it is covered as one of the documents in the list of the 12 documents as enlisted in Clause 2 of the DDA policy,

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2015. This shows that the Appellant/Claimant was having a valid Voter ID Card & Aadhar 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 and further she was also having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. In the light of our detailed discussion, we have no hesitation in holding that the Appellant/ Claimant was having all the requisite documents and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

72. 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 policy guidelines issued by DDA. But the Eligibility Determination Committee has wrongly and illegally rejected her claim. Hence the present appeal No. 221 of 2024 stands allowed, hereby, setting aside the impugned order communicated vide order bearing No. 350-64/11.G dated 01.07.2023 issued by the Nodal Officer. DDA is hereby directed to make allotment in favour of Appellant/ Claimant, Kamlesh Devi W/o Raj Kumar, in respect of the double storey Jhuggi No. N-207/447, Jailorwala Bagh, Ashok Vihar.

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

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

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

Appeal No: 146 of 2024

Date of Institution: 17.07.2023

Date of Order: 22.07.2024

Present: Appellant/ Claimant Gauri Shankar S/o Vijay Shanker

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-132, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-132 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the

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Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-76/7.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 146 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 30.04.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-U, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-132 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Second documents: JJ dwellers fail to submit one of the 12 documents issued before 01.01.2015 as prescribed"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. A-132 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Gauri Shankar has been recorded before us on 30.04.2024 wherein he has stated that his parents, Vijay Shankar & Ramshri, are having two sons; Shiv Shankar & Gauri Shankar (Appellant/Claimant) and three daughters; Rekha, Shashi

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& Gudia. Vijay Shankar had expired on 07.11.2023 and his Death Certificate is Annexure-J. All the children except Shiv Shankar are married. Rekha is married with Shivlal and Gudia is married with Pramod and they are living in their respective matrimonial homes in District Kanpur, Uttar Pradesh. Shashi is married with Naresh and she is living in Sawan Park, Ashok Vihar, Delhi. Gauri Shankar (Appellant/Claimant) is married with Rekha and having two daughters; Samayra & Bhavya.

9. The Appellant/Claimant has stated that his family is having a Jhuggi No. A-132, Jailorwala Bagh, Ashok Vihar which is a double storey structure and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that his parents, Vijay Shankar (until his death on 07.11.2023) & Ramshri, along with their unmarried son Shiv Shankar are living on the ground floor of the Jhuggi No. A-132 and regarding which DDA has made allotment in favour of his father Vijay Shankar (since deceased). These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Rekha and both the daughters; Samayra & Bhavya, is living on the first floor of the said Jhuggi No. A-132 and regarding that the Appellant/Claimant has sought allotment from DDA but his claim has been rejected by Eligibility Determination Committee on the ground that "Second documents : JJ dwellers fail to submit one of the 12 documents issued before 01-01-2015 as prescribed", in spite of the fact that he has admittedly sought allotment from DDA against the first floor of the Jhuggi No. A-132 and further he is having all the requisite documents as per policy guidelines issued by DDA and accordingly, aggrieved by the same, he has filed the present Appeal No. 146 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-U, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished survey records along with three video clips of Jhuggi No. A-132. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. A-132 on 11.04.2020 on the first floor of the said Jhuggi and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducting of survey/videography the Appellant / Claimant, was very much present and he had got the survey / videography

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conducted and the video clip is also attached in token thereof.

13. DDA has furnished survey records along with three video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 30.04.2024 wherein he has stated that the first video clip pertains to the Jhuggi No. A-132 in which from outside the Jhuggi is clearly seen to be a double storey pucca structure but the ground floor is seen to be lying locked and further on that Jhuggi, a nameplate is pasted on which **"BIJAY SHANKAR JH No: A-132 JAILER WALA BAGH ASHOK VIHAR PH-II. DL 52"** is clearly seen to have been written. In the second video clip, Vijay Shankar (since deceased), who is father of the Appellant/Claimant is seen and he is heard stating that he is living on the ground floor whereas there is separate survey for the first floor of the said Jhuggi No. A-132 and further, room & kitchen of Vijay Shankar is seen on the ground floor and further, the said Vijay Shankar is seen holding a slate in his hand on which **"A-132 VIJAY SHNAKAR G.F"** is seen to be written. The third video clip pertains to the first floor of the Jhuggi No. A-132 in which the Appellant/Claimant is seen and further, his room & kitchen are seen and further, he is seen holding a state in his hand on which **"A-132 GAURI SHANKAR F.F"** is clearly seen to be written.

14. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case about the existence of the double storey Jhuggi No. A-132. Thus the statement of the Appellant/Claimant as well as the survey records along with three video clips has duly proved that the double storey Jhuggi No. A-132 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and his parents, Vijay Shankar (until his death on 07.11.2023) & Ramshri, along with their unmarried son Shiv Shankar are living in the ground floor of the Jhuggi No. A-132 and regarding which DDA has made allotment in favour of his father Vijay Shankar (since deceased). Whereas the Appellant/Claimant along with his wife Rekha and both the daughters; Samayra & Bhavya, is living on the first floor of the said double storey Jhuggi No. A-132 and is using the same for residential purposes.

15. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-132 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still living on the first floor of the said double storey Jhuggi No. A-132 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the

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said double storey Jhuggi.

16. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of the said double storey Jhuggi No. A-132 as per the policy guidelines issued by DDA.

17. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-U, in support of his claim and prayed that DDA be directed to make allotment against the first floor of the said double storey Jhuggi No. A-132 in his favour.

18. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-76/7.G dated 01.07.2023.

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

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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."

20. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

21. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

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

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the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

23. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

25. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

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dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

27. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

29. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

30. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

31. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore,

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even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

32. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the

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cut-off date, i.e., 01st January, 2015.

33. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

34. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

37. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

39. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

40. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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

42. It is pointed out that we have already held that the double storey Jhuggi No. A-132 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still living on the first floor of the said double storey Jhuggi No. A-132 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the first floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

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

44. The Appellant/Claimant has tendered his Voter ID Card No. JPF 0915041 (Annexure-A), Aadhar Card (Annexure-B) & PAN Card (Annexure-C), Letter No. F. No./AERO/AC-17/2024/153 dated 22.04.2024 (Annexure-K) issued by AERO, AC-17, Wazirpur, Voter List of the year 2013 (Annexure-L), Voter List of the year 2014 (Annexure-M), Voter List of the year 2015 (Annexure-N), Voter List of the year 2016 (Annexure-O), Voter List of the year 2017 (Annexure-P), Voter List of the year 2018 (Annexure-Q), Voter List of the year 2019

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(Annexure-R), Voter List of the year 2020 (Annexure-S), Voter List of the year 2022 (Annexure-T) & Voter List of the year 2023 (Annexure-U).

45. It is pointed out that the Appellant/Claimant has tendered his Voter ID Card No. JPF 0915041 (Annexure-A) and it has been issued on 16.01.2013, much prior to the cutoff date of 01.01.2015. His Aadhar Card (Annexure-B) has been issued on 24.12.2012. Further, the Appellant/Claimant has tendered Letter No. F. No./AERO/AC-17/2024/153 dated 22.04.2024 (Annexure-K) issued by AERO, AC-17, Wazirpur thereby verifying that the Voter ID Card of the Appellant/Claimant bearing No. JPF 0915041 is a valid document as per the records of the Election Commission and further, this Voter ID Card is not reflected in the Voter Lists of the year 2012 but it appears in the Voter List of the yeas from 2013 to 2023.

46. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 1039 in the Voter List of the year 2013 (Annexure-L), at SL. No. 10 in the Voter List of the year 2014 (Annexure-M), at Sl. No. 404 in the Voter List of the year 2015 (Annexure-N), at Sl. No. 430 in the Voter List of the year 2016 (Annexure-O), at Sl. No. 450 in the Voter List of the year 2017 (Annexure-P), at Sl. No. 466 in the Voter List of the year 2018 (Annexure-Q), at Sl. NO. 473 in the Voter List of the year 2019 (Annexure-R), at Sl. No. 499 in the Voter List of the year 2020 (Annexure-S), at Sl. No. 532 in the Voter List of the year 2022 (Annexure-T) and at Sl. No. 538 in the Voter List of the year 2023 (Annexure-U. It is also pointed out that in all the Voter Lists (Annexure-L to Annexure-U), the Voter ID Card of the Appellant/Claimant has been mentioned to be JPF 0915041 and further in the documents (Annexure-A, Annexure-B and Annexure-L to Annexure-U) his address is mentioned to be Jhuggi No. A-132, regarding which he is claiming allotment from DDA.

47. Therefore, we have no hesitation in holding that the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-132 regarding which he has been claiming allotment from DDA and further his name also appears in the voter list of the year's 2012 to 2022.

48. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-132 regarding which he is claiming allotment from DDA. The fact remains that the Appellant/Claimant was not having a separate Ration Card issued on the address of the first floor of the Jhuggi No. A-132, regarding which he is claiming allotment from DDA. 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, which make separate Ration Card a mandatory document for the upper floor.

49. The Appellant/Claimant has tendered the Voter ID Card No. WHC 2033883 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Rekha Devi as well as the Electricity Bill (Annexure-G), Passbook of SBI (Annexure-H), Birth Certificate (Annexure-I) of his daughter Bhavya in support of his claim.

50. It is pointed out that the Appellant/Claimant has tendered Voter ID Card No. WHC 2033883 (Annexure-D) of his wife Rekha and it has been issued on 21.03.2014, much prior to the cutoff date of 01.01.2015 Furthermore, the name of Rekha appears at Sl. No. 402 in the Voter List of the year 2015 (Annexure-N), at Sl. No. 428 in the Voter List of the year 2016 (Annexure-O), at Sl. No. 448 in the Voter List of the year 2017 (Annexure-P), at Sl. No. 464 in the Voter List of the year 2018 (Annexure-Q), at Sl. NO. 471 in the Voter List of the year 2019 (Annexure-R), at Sl. No. 497 in the Voter List of the year 2020 (Annexure-S), at Sl. No. 530 in the Voter List of the year 2022 (Annexure-T) & at Sl. No. 536 in the Voter List of the year 2023 (Annexure-U. It is pointed out that the Electricity Bill (Annexure-G) shows that the electricity connection has been taken by the Appellant/Claimant on 03.03.2017, much after the cutoff date of 01.01.2015. Furthermore, the Passbook of SBI (Annexure-H) shows that Appellant/Claimant has opened the account on 17.01.2022, much after the cutoff date of 01.01.2015. Further, the Birth Certificate (Annexure-I) of his daughter Bhavya has been issued on 02.09.2017, much after the cutoff date of 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. A-132 regarding which he has been claiming allotment from DDA, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

51. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific

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recommendations thereby taking a decision in all the cases strictly accordingly to the merit of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

52. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. A-132, Jailorwala Bagh, regarding which he is claiming allotment from DDA in spite of the fact that he is claiming allotment from DDA against the upper floor, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-U, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

53. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-76/7.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

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

Appeal No: 235 of 2024

Date of Institution: 27.07.2023

Date of Order: 19.07.2024

Present: Appellant/ Claimant Dilip S/o Ram Chander

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. G-9, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. G-9 was found to exist but he had failed to submit requisite documents as per

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the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350/Fresh/90 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 235 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 19.06.2024. 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. Radhey Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. G-9 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. G-9 as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant Dalip has been recorded before us on 19.06.2024 wherein he has stated that his parents, Ram Chander & Kamal, are having four sons; Ranjit, Sanjay, Sanjeev & Dalip (Appellant/Claimant) and one daughter; Premlata. His parents, Ram Chander & Kamal are living their native village in Patna, Bihar. All the children are married but he does not remember the name of the spouses of Ranjit, Sanjay, Sanjeev & Premlata. Ranjit along with his family is living in Mukundpur, Delhi whereas all the remaining siblings Sanjay, Sanjeev & Premlata are living in Patna, Bihar. The Appellant/Claimant has stated that he was married with Anita but they are not having any issues from the wedlock. His wife Anita had expired about fifteen years ago.

9. The Appellant/Claimant has stated that he is having a double storey Jhuggi No. G-9 in Jailorwala Bagh, Ashok Vihar and it comprises of one room on each floor and an iron ladder is placed outside in the gali and it is used for going to the upper floor. He has installed a shutter on the ground floor and had also installed wooden shelves as he wanted to start a shop but due to the death of his wife Anita, he shelved the idea of running a shop from the ground floor.

10. The Appellant/Claimant has stated that he has sought allotment from DDA regarding that said double storey Jhuggi No. C-59 but during the survey, the survey team of DDA had changed the number of the Jhuggi No. C-59 to Jhuggi No. G-9 and furthermore, his claim has been rejected by Eligibility Determination Committee on the grounds that he has been found to be claiming allotment against the upper floor and further his Voter ID Could not be verified in spite of the fact that he has claimed allotment against the said double storey Jhuggi No. C-59 and further, the survey team of DDA has wrongly recorded this number to be "G-9" instead of "C-59" and further he is having all the requisite documents as per policy guidelines issued by DDA and accordingly, aggrieved by the same, he has filed the present Appeal No. 235 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished survey records along with one video clip of Jhuggi No. G-9. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. G-9. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and he had got the survey/videography conducted and the video clip is also

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attached in token thereof.

12. DDA has furnished survey record along with one video clip. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 19.06.2024 wherein he has stated that the video clip pertains to the Jhuggi No. G-9 in which the Jhuggi No. G-9 is clearly seen from outside to be a pucca structure but the first floor is not seen and further, the ground floor is seen to be having a shutter and wooden shelves and his room & kitchen are also seen and further, the Appellant/Claimant is also seen and getting the survey conducted and he is also seen thereby holding a slate in his hand on which **"G-9 DALIP (NOT IN LIST) G+1"** is clearly seen to have been written.

13. The survey records placed on file by DDA shows that the Appellant/Claimant has sought alternative allotment from DDA against the Jhuggi No. G-9 and furthermore, the Appellant/Claimant is also seen in the video clip thereby holding a slate in which the number of the Jhuggi against which he is getting the survey conducted is seen to be bearing Jhuggi No. G-9. This accordingly demolishes the story put forward by the Appellant/Claimant that he is claiming allotment against the Jhuggi no. C-59 and it was the survey team, which had wrongly changed the number of the Jhuggi from C-59 to G-9. But as pointed out above, the survey records placed on file shows that the Appellant/Claimant has claimed allotment from DDA against the Jhuggi No. G-9. But it seems that the Appellant/Claimant has concocted a wrong & false story because he is not having documents prepared on the address of the Jhuggi No. *G-9* but instead he might be having documents issued on Jhuggi no. C-59 and accordingly, he has concocted a wrong & false story that his Jhuggi was bearing Jhuggi No. C-59 and not G-9 with a dishonest intention to use these documents for getting allotment from DDA by. Moreover, the statement of the Appellant/Claimant cannot be believed that he has claimed allotment against the double storey Jhuggi No. C-59 but it was the survey team of DDA, which has wrongly recorded the number of his Jhuggi to be "G-9" instead of "C-59" especially when he out of his own free will and got the survey conducted of Jhuggi No. G-9 and further when the video clip prepared by the survey team was played before the Appellant/Claimant when his statement was recorded before us on 19.06.2024 wherein he has stated that the video clip pertains to the Jhuggi No. G-9 and further in the video clip he is also seen thereby holding a slate in his hand on which **"G-9 DALIP (NOT IN LIST) G+1"** is clearly seen to have been

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written. This creates doubt & suspicion in the story put forward by the Appellant/Claimant.

14. Thus the survey records/video clips have duly proved that Appellant/Claimant has claimed allotment from DDA against the Jhuggi No. G-9 and not against Jhuggi No. C-59 and further the double storey Jhuggi No. G-9 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant / Claimant is using the same for residential purposes.

15. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. G-9 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

16. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi No. G-9 as per the policy guidelines issued by DDA.

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

18. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility

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criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350/Fresh/90 dated 01.07.2023.

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

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

20. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

21. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before

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01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

22. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

23. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

25. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

26. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

27. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was

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not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

29. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

30. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure

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that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

31. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

32. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation

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of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

33. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

34. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

35. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development**

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

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

37. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

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39. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

40. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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

42. It is pointed out that we have already held that the double storey Jhuggi No. G-9 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the

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Appellant/ Claimant.

43. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi No. G-9 as per the policy guidelines issued by DDA.

44. The Appellant/Claimant has tendered his Voter ID Card No. JPF 0691683 (Annexure-A), two Aadhar Cards (Annexure-B & Annexure-J), Letter No. F. No. AERO/AC-17/2024/180 dated 27.05.2024 (Annexure-E), Voter List of the year 2012 (Annexure-F), Voter List of the year 2013 (Annexure-G), Voter List of the year 2014 (Annexure-H) and Voter List of the year 2015 (Annexure-I) in support of his claim.

45. It is pointed out that the Appellant/Claimant has tendered his Voter ID Card bearing number JPF 0691683 (Annexure-A) and it has been issued on 13.06.2002, much prior to the cutoff date of 01.01.2015. But it is pointed out that this Voter ID Card (Annexure-A) has been issued on the address of the Jhuggi No. C-59 whereas as per our discussion above we have held that the Appellant/Claimant has been claiming allotment against the Jhuggi No. G-9 and accordingly this Voter ID Card (Annexure-A) is not relevant to determine the eligibility of the Appellant/Claimant.

46. It is pointed out that the Appellant/Claimant has tendered two Aadhar Cards (Annexure-A & Annexure-J) and both are bearing the same number i.e. 7003 8286 8544. The first Aadhar Card (Annexure-B) has been issued on 26.03.2013 on the address of the Jhuggi No. C-59. Whereas the second Aadhar Card (Annexure-J) has been issued on the address of the Jhuggi No. G-9 but the date of issuance of this Aadhar Card is not mentioned therein. However, the fact remains that the Appellant/Claimant had got his first Aadhar Card (Annexure-B) issued on the address of the Jhuggi No. C-59 but later on, he has got the address changed from C-59 to G-9 and accordingly, the second Aadhar Card (Annexure-J) was got issued by him. This shows that the Appellant/Claimant was living in the Jhuggi No. C-59 and he has tried to create evidence by getting another Aadhar Card (Annexure-J) issued and thereby changing the address of the Jhuggi to G-9 with a dishonest intention to grab allotment from DDA by hook or crook.

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47. It is also pointed out that the Letter No. F. No. AERO/AC-17/2024/180 dated. 27.05.2024 (Annexure-E) issued by AERO, AC-17, Wazirpur, shows that the Voter ID Card No. JPF 0691683 of the Appellant/Claimant is a valid document and further, it is also mentioned that this Voter ID Card is reflected in the Voter List of the year 2012 to 2015. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 566 in the Voter List of the year 2012 (Annexure-F), at Sl. No. 566 in the Voter List of the year 2013 (Annexure-G), at Sl. No. 494 in the Voter List of the year 2014 (Annexure-H) and at Sl. No. 596 in the Voter List of the year 2015 (Annexure-I). However, it is pointed out that Letter No. F. No. AERO/AC-17/2024/180 dated. 27.05.2024 (Annexure-E) as well as the Voter ID Card No. JPF 0691683 (Annexure-A) and the Voter Lists of the year 2012 to 2015 (Annexure-F to Annexure-I) the address of the Appellant/Claimant is mentioned to be Jhuggi No. C-59, Jailorwala Bagh, whereas he has been claiming alternative allotment from DDA against the Jhuggi No. G-9 and accordingly, all these documents are not relevant to determine the eligibility of the Appellant/Claimant.

48. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. G-9, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further, his name also does not appear in the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey issued on the address of the Jhuggi No. G-9, Jailorwala Bagh, therefore, the Appellant/Claimant is not entitled for claiming alternate allotment from DDA.

49. The Appellant/Claimant has also tendered the Electricity Bill (Annexure-C) and Passbook of SBI (Annexure-D) in support of his claim.

50. It is pointed out that the Electricity Bill (Annexure-C) shows that the Appellant/Claimant had taken the electricity connection on 01.05.2005 on the address of the Jhuggi No. C-59 whereas he has been claiming allotment from DDA against the Jhuggi No. G-9, therefore, this document is not relevant. The Passbook of SBI (Annexure-D) shows that the Appellant/Claimant had opened the account on 31.10.2022 on the address of the Jhuggi No. G-9 but the account has been opened on 31.10.2022, much after the cutoff date of 01.01.2015 and this shows that the account was opened by the Appellant/Claimant to create document in support of his claim so that he can grab alternative allotment from DDA

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by hook or crook. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. G-9, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

52. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. G-9, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and

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fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-J, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make him eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

53. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350/Fresh/90 dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

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

Appeal No: 122 of 2024

Date of Institution: 13.07.2023

Date of Order: 30.07.2024

Present: Appellant/ Claimant Pawan Kumar S/o Ram Kawal

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

ORDER

1. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. G-84, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. G-84 was found to exist but it was found to have been used exclusively for commercial purposes and further he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-33/002.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the Appeal No. 122 of 2024 has been filed by the present Appellant/ Claimant.

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2. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhe Shyam Meena, Dy. Director.

3. The statement of the Appellant/Claimant has been recorded before us on 30.04.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-T, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey. In view of the letter bearing U.O. NO. F2(ISR)/AA/PMAY/37 dated 03.06.2024, whereby the observations made by Principal Commissioner (Housing) and worthy Vice Chairman, DDA have been annexed, the representatives of PMAY-ISR Department of DDA has also examined Sh. Dilshad Ahemad, Assistant Director, and his statement has also been recorded before us on 01.07.2024.

4. Arguments advanced by the Appellant/Claimant as well as Sh. Radhe Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

5. It is the admitted fact that as per survey records, the Appellant/ Claimant's Jhuggi bearing No. G-84 was found to be 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 him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Jhuggi is used solely for Commercial Purpose"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

6. 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 Appellant/Claimant was using the Jhuggi No. G-84 on the cutoff date of 01.01.2015 exclusively for commercial purposes or it was used exclusively for residential purposes and/or it was put to mixed use for residential-cum-commercial purposes and accordingly whether the present Appellant/Claimant is entitled for alternative allotment as per the policy guidelines issued by DDA.

7. Here it is pertinent to mention that the Appellant/ Claimant has sought alternate allotment under insitu Slum Redevelopment policy against the triple storey Jhuggi No. G-84, Jailorwala Bagh, Ashok Vihar, as per the policy guidelines issued by DDA. The survey was conducted in

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respect of the said Jhuggi and the documents, i.e., Voter ID Card & Aadhar Card etc. relating to the Appellant/ Claimant & his family members, which were furnished by the Appellant/ Claimant, were also got verified and all the materials including video clips were placed before the Eligibility Determination Committee but it has rejected the claim of the present Appellant/ Claimant and the same was communicated to the Appellant/Claimant by the Nodal Officer, vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Jhuggi is used solely for Commercial Purpose".** This shows that the claim of the Appellant/Claimant was rejected on the sole ground that the Jhuggi No. G-84 was used for commercial purposes, thereby, showing that DDA has not disputed about the existence of the Jhuggi No. G-84 of the Appellant/Claimant on the cutoff date of 01.01.2015 and further he was also having all other requisite documents and making compliance of all other mandatory conditions except that this was allegedly used for commercial purposes. Therefore, in the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Jhuggi No. G-84 was used exclusively for commercial purposes or it was used exclusively for residential purposes and/or it was put to mixed use for residential-cum-commercial purposes and as to whether the Appellant/ Claimant was having all the requisite documents, on the cutoff date of 01.01.2015.

8. Therefore, it has to be first seen as to what is the legal position with regard to running of shop and using of the Jhuggi as commercial under the policy guidelines issued by DDA. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

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

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

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

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

9. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before

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01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNETS OF DOCUMENTS

10. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of 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 one of the documents out of list of 12 documents.

11. Thus the bare perusal of the Policy shows that for claiming allotment against the ground floor/single storey Jhuggi the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the 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 and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015. Further, the Jhuggi should not have been used exclusively for commercial purposes but it should have been used for residential purposes or put to mixed used as residential-cum-commercial.

12. As already pointed out above, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit as per the policy guidelines issued by DDA. Therefore, now we shall appraise the material placed on file to determine whether the Appellant/Claimant was using the Jhuggi No. G-84 exclusively for commercial purposes or it was used exclusively for residential purposes and/or it was put to mixed use for residential-cum-commercial purposes and accordingly whether the present

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Appellant/Claimant is entitled for alternative allotment as per the policy guidelines issued by DDA.

13. The statement of the Appellant/Claimant Pawan Kumar has been recorded before us on 30.04.2024 wherein he has stated that his parents, Ram Kawal & Prema @ Utrain, are having three sons, Devi Prasad, Vijay & Pawan and one daughter, Kusum. Ram Kawal had expired in the year 2017. All the children are married. Kusum is married with Rajinder and she is living in her matrimonial home in Pratapgarh, Uttar Pradesh. Devi Prasad is married with Meena Devi and having three children and they are living in Jhuggi No. H-155, Jailorwala Bagh, Ashok Vihar and regarding that DDA has made allotment in favour of Devi Prasad. Vijay is married with Rita and having two children and they are living in Pratapgarh, Uttar Pradesh. Pawan (Appellant/Claimant) is married with Priya and having three children, Yuvraj, Pratibha & Abhinay.

Jhuggi No. G-84

14. The Appellant/Claimant has stated that he is having a triple storey Jhuggi No. G-84, Jailorwala Bagh, Ashok Vihar and it comprises of one room on each floor and an iron ladder is placed on the ground floor and it is used for going to the first floor and then to the second floor. The Appellant/Claimant Pawan Kumar along with his parents, Ram Kawal (until his death in 2017) & Prema @ Utrain, as well as his wife Priya & three children, Yuvraj, Pratibha & Abhinay, is living in the said triple storey Jhuggi No. G-84. The room on the ground floor was previously used by his father Ram Kawal during his lifetime for running a grocery shop and also for sleeping purposes by him whereas rooms on the first floor & second floor were used for residential purposes. However, after the death of his father Ram Kawal in the year 2017, the grocery shop was closed and the Appellant/Claimant along with both the rooms on the first & second floor, as done in the past, had also started using the said room on the ground floor exclusively for residential purposes. Thus after 2017 the said triple storey Jhuggi No. G-84 has been used exclusively for residential purposes whereas earlier and more particularly on the cutoff date of 01.01.2015 it was put to mixed use for residential-cum-commercial purposes.

15. The Appellant/Claimant has further stated that he has sought allotment from DDA against the triple storey Jhuggi No. G-84 but his claim has been rejected by the Eligibility Determination Committee on the grounds that the said Jhuggi No. G-84 was found to be used solely for commercial purposes in spite of the fact that the said Jhuggi on the cutoff

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date of 01.01.2015 was put to mixed use for residential & commercial purposes and after the death of his father in the year 2017 it has been exclusively used for residential purposes and further he is having all the requisite documents as per the policy guidelines issued by DDA and accordingly aggrieved by the same he has filed the present Appeal No. 122 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-T, in support of his claim and prayed that DDA be directed to make allotment in his favour.

REJECTION OF REPRESENTATION BY EDC VIDE ORDER DATED 06.09.2022 (Annexure-T)

16. Now we shall appraise the material placed on file to show as to how the EDC had proceeded to deal with the claim and more particularly as to whether it was swayed by irrelevant matter or it has determined the claim of the Appellant/ Claimant fairly & independently.

17. It is not disputed that the claim of the Appellant/ Claimant was placed before the Eligibility Determination Committee (hereinafter called EDC). It is pertinent to point out that the claim of the Appellant/ Claimant was rejected by EDC on 06.09.2022 (Annexure-T) and the Nodal Officer, duly communicated its order bearing No. 350-33/002.G dated 01.07.2023 to the present Appellant/Claimant and the Note of the EDC dated 06.09.2022 (Annexure-T) is reproduced for better understanding of the facts and the grounds on which the claim of the present Appellant/ Claimant was rejected, as under: -

EDC Note dated 06.09.2022 (Annexure-T)

> "1. The case of the applicant has been examined, that as per survey report the use of Jhuggi at Ground was commercial.
> 2. As per policy guidelines, Part –B The eligibility criteria for allotment of alternative dwelling units for rehabilitation and relocation of JJ dwellers would be as under – "No dwelling unit shall be allotted if the Jhuggi is used solely for commercial purpose". As per survey record use of Jhuggi was commercial.
> 3. Hence, the applicant/ claimant does not fulfill the eligibility criteria. The applicant/ claimant is found ineligible for alternative allotment."

18. The bare perusal of the Note of the EDC dated 06.09.2022 (Annexure-T) shows that DDA has not objected about the existence of the Jhuggi of the Appellant/Claimant as reflected in the Eligibility Determination Committee Note dated 06.09.2022 (Annexure-T) but his claim was

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rejected on the sole ground that the ground floor of Jhuggi No. G-84 was found to be used for commercial purposes but nothing is mentioned as to what was found on the upper floors and as to whether it was used for residential purposes by the same family or not. It seems that the EDC was swayed by the fact that the ground floor was found to have been used solely for commercial purpose but it has ignored the fact that in the Video clip prepared by the survey team of DDA the upper floors are clearly shown to have been used for residential purposes by the same family. Therefore, all the material facts were not considered by EDC.

19. As pointed out above the Appellant/ Claimant has stated that his family was having triple storey Jhuggi No. G-84, Jailorwala Bagh, Ashok Vihar and it comprises of one room on each floor and an iron ladder is placed on the ground floor and it is used for going to the first floor and then to the second floor. The Appellant/Claimant Pawan Kumar along with his parents, Ram Kawal (until his death in 2017) & Prema @ Utrain, as well as his wife Priya & three children, Yuvraj, Pratibha & Abhinay is living in the said triple storey Jhuggi No. G-84. The room on the ground floor was used by his father Ram Kawal during his lifetime for running a grocery shop and also for sleeping purposes by him whereas rooms on the first floor & second floor were used for residential purposes by the Appellant/Claimant & his family members. However, after the death of his father Ram Kawal in the year 2017, the grocery shop was closed and the Appellant/Claimant along with both the rooms on the first & second floor, as done in the past, had also started using the said room on the ground floor exclusively for residential purposes.

20. DDA has furnished the survey records along with one video clip of Jhuggi No. G-84. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 30.04.2024 wherein the Appellant/Claimant has stated the video clip pertains to the Jhuggi No. G-84 in which from outside the Jhuggi No. G-84 is clearly seen to be a triple storey pucca Jhuggi and an iron ladder is seen used for going to the upper floors and further the Appellant/Claimant is seen and getting the survey conducted and on the ground floor empty wooden shelves are seen and a bedding is also seen to be lying on the floor and further room & kitchen are also seen on the first floor and the second floor of the said Jhuggi No. G-84 and the Appellant/Claimant is also heard stating that the entire three floors are used by his family and previously his father, Ram Kawal was running a shop from the ground floor and after his death the shop has been closed and the ground floor is also used for sleeping purposes and further, the Appellant/Claimant is also seen holding a slate in his hand on which **"G-84 PAWAN KUMAR G+1"** is seen to have been written.

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21. It is also pointed out that the Appellant/Claimant has tendered Pen Drive (Annexure-R) containing video clip of his Jhuggi No. G-84 and the same is saved in the computer along with the video clip prepared by the survey team. The Pen Drive (Annexure-R) containing video of Jhuggi No. G-84 was also played before the Appellant/Claimant when his statement was recorded before us on 30.04.2024 and in that empty wooden shelf, a bed & kitchen utensils are seen in the room on the ground floor and further an iron ladder going from ground floor to the first floor and then to the second floor is seen and further, kitchen & room used for residential purposes on the first floor as well as on the second floor of the said Jhuggi No. G-84 are seen.

22. It is also pointed out that the video clip prepared by the survey team as well as the Pen Drive (Annexure-R) tendered by the Appellant/Claimant containing video clip of the Jhuggi No. G-84 was played before Sh. Dilshad Ahemad, Assistant Director when his statement was recorded before us on 01.07.2024 wherein he has stated the video clip pertains to the Jhuggi No. G-84 in which from outside the Jhuggi No. G-84 is clearly seen to be a triple storey pucca Jhuggi and on the ground floor empty wooden shelves are seen and a bedding is seen to be lying on the floor and further room & kitchen are also seen on the first floor and the second floor of the said Jhuggi No. G-84 and the Appellant/Claimant is seen and getting the survey conducted and he is also heard stating that the entire three floors are used by his family and previously his father, Ram Kawal was running a shop from the ground floor and after his death the shop has been closed and the ground floor is also used for sleeping purposes and further, the Appellant/Claimant is also seen holding a slate in his hand on which **"G-84 PAWAN KUMAR G+1"** is seen to have been written. Furthermore, he has also stated that in the Pen Drive (Annexure-R) containing video clip of the Jhuggi No. G-84 the wooden shelf, a bed & kitchen utensils are seen in the room on the ground floor and further, an iron ladder going from ground floor to the first floor and then to the second floor is seen and further, kitchen & room used for residential purposes on the first floor as well as on the second floor of the said Jhuggi No. G-84 are seen. They have also stated that in the Note of the EDC dated 06.09.2022 (Annexure-T) there is reference with regard to the ground floor having found to have been used solely for commercial purposes but nothing is mentioned with regard to the nature & also the purposes for which the upper floor was used.

23. Sh. Dilshad Ahemad, Assistant Director, has also admitted the correctness & genuineness of the survey records as well as the video clip pertaining to Jhuggi G-84, which were

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prepared by the survey team of DDA and also the Pen Drive (Annexure-R) containing video clip of his Jhuggi No. G-84 and they have corroborated the statement of the Appellant/Claimant with regard to the existence of the triple storey Jhuggi bearing number G-84 and also with regard to the present Appellant/Claimant along with his family having used the Jhuggi No. G-84 for mixed use for residential-cum- commercial purposes on the cutoff date of 01.01.2015 and afterwards it being used exclusively for residential purposes. The statement of Dilshad Ahemad, Assistant Director, also shows that incomplete records were placed and taken into consideration by the EDC because there is reference with regard to the ground floor having found to have been used solely for commercial purposes but nothing is mentioned with regard to the nature & also the purposes for which the upper floor was used. This accordingly shows that incomplete records were placed and taken into consideration by the EDC and accordingly the order of EDC is not sustainable in the eyes of law.

24. The statement of the Appellant/Claimant is fully corroborated by the survey records placed on file as well as by the video clip prepared by the survey team and also by the Pen Drive (Annexure-R) tendered by the Appellant/Claimant and the material placed on file shows that the Jhuggi No. G-84 is a triple storey pucca structure and it comprises of one room on each floor and an iron ladder is placed on the ground floor and it is used for going to the first floor and thereafter to the second floor and further, the room on the ground floor is seen to have empty wooden shelves and also have bedding etc. and further the room on the ground floor was used by his father, Ram Kawal, for running a grocery shop & also for sleeping purposes until his death in the year 2017 and thereafter the shop was closed and the room on the ground floor is used for residential purposes and further the rooms on the first floor & the second floor have been continuously used as room/kitchen much prior to the cutoff date 01.01.2015. The material placed on file also shows that the triple storey pucca Jhuggi No. G-84 was in existence much prior to the cutoff date 01.01.2015 and further up till 2017 it was put to mixed used for residential-cum-commercial purposes for running a grocery shop by his father Ram Kawal from the ground floor and after his death 2017 all the three floors of the said triple storey Jhuggi No. G-84 have been exclusively used for residential purposes. Thus the entire triple storey Jhuggi No. G-84 was put to mixed use for residential-cum-commercial purposes on the cutoff date of 01.01.2015 and after 2017 it has been put to exclusively use for residential purposes.

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25. 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.

26. There is nothing to disbelieve the statement of the Appellant/Claimant as it has been corroborated by the survey records/video clip/photograph prepared by the survey team of DDA as well as reflected in the Pen drive (Annexure-R) and accordingly, we have no hesitation in holding that the triple storey Jhuggi No. G-84 was a pucca & an old construction and it was very much in existence much prior to the cutoff date of 01.01.2015 and it was a separate dwelling unit and the Appellant/ Claimant along with his family was living separately & independently in the said Jhuggi on the cutoff date of 01.01.2015 and further up till 2017 it was put to mixed use for residential-cum-commercial purposes for running a grocery shop by his father Ram Kawal from the ground floor and after his death in the year 2017 it has been exclusively used for residential purposes. Therefore, the material placed on file shows that on the cutoff date of 01.01.2015 the Jhuggi No. G-84 was put to mixed use for residential-cum-commercial purposes as his father Ram Kawal was running a grocery shop from the ground floor whereas the part of the ground floor as well as the first & second floor of the said Jhuggi No. G-84 was used for residential purposes and accordingly, the Appellant/Claimant fulfill the eligibility criteria to get alternative allotment as per the policy guidelines issued by DDA.

27. Therefore, we have no hesitation in holding that the room on the ground floor was used by his father Ram Kawal during his lifetime for running a grocery shop and also for sleeping purposes by him whereas rooms on the first floor & second floor were used for residential purposes by the Appellant/Claimant & other family members. However, after the death of his father Ram Kawal in the year 2017, the grocery shop was closed and the Appellant/Claimant along with both the rooms on the first & second floor, as done in the past, had also started using the said room on the ground floor exclusively for residential purposes, therefore, on the cutoff date of 01.01.2015 the Jhuggi No. G-84 was put to mixed

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use for residential-cum-commercial purposes and accordingly the Appellant/Claimant is entitled to claim alternate allotment from DDA as per the policy guidelines issued by DDA.

28. 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 at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the triple storey Jhuggi No. G-84 as per the policy guidelines issued by DDA.

29. The Appellant/Claimant has tendered his Voter ID Card No. JPF 0724419 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Letter No. AERO/AC-17/2024/144 dated 13.04.2024 (Annexure-K) of AERO/AC-17 Wazirpur, Voter List of the year 2012 (Annexure-L), Voter List of the year 2013 (Annexure-M), Voter List of the year 2014 (Annexure-N) and Voter List of the year 2015 (Annexure-O) in support of his claim.

30. It is pointed out that the Voter ID Card No. JPF 0724419 (Annexure-A) of the Appellant/Claimant has been issued on 15.11.2013, much prior to the cutoff date 01.01.2015. It is also pointed out that the Aadhar Card No. 8692 2398 9896 (Annexure-B) of the Appellant/Claimant has been issued on 23.09.2011, much prior to the cutoff date 01.01.2015. Furthermore, the Letter No. AERO/AC-17/2024/144 dated 13.04.2024 (Annexure-K) of AERO/AC-17 Wazirpur also shows that the Voter ID Card No. JPF 0724419 (Annexure-A) is a valid document as per the records of the Election Commission and further this Voter ID Card has been reflected in the Voter List of the years 2012 to 2015.

31. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 146 in the Voter List of the year 2012 (Annexure-L), at Sl. No. 148 in the Voter List of the year 2013 (Annexure-M), at Sl. No. 163 in the Voter List of the year 2014 (Annexure-N) and at Sl. No. 180 in the Voter List of the year 2015 (Annexure-O) and in all these Voter Lists the number of the Voter ID Card of the Appellant/Claimant has been mentioned to be bearing number JPF 0724419. It is also pointed out that in all the above referred documents (Annexure-A, Annexure-B and Annexure- L to Annexure-O) the address of the Appellant/Claimant is mentioned to be Jhuggi No. G-84 regarding which he has been claiming allotment from DDA.

32. As already pointed out above, the Voter ID Card No. JPF 0724419 (Annexure-A) of the Appellant/Claimant has been issued on 15.11.2013 and the Letter dated 13.04.2024 (Annexure-K) of AERO/AC-17 Wazirpur also shows that the Voter ID Card No. JPF 0724419

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(Annexure-A) is a valid document as per the records of the Election Commission and further this Voter ID Card has been reflected in the Voter List of the years 2012 to 2015. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 146 in the Voter List of the year 2012 (Annexure-L), at Sl. No. 148 in the Voter List of the year 2013 (Annexure-M), at Sl. No. 163 in the Voter List of the year 2014 (Annexure-N) and at Sl. No. 180 in the Voter List of the year 2015 (Annexure-O). This shows that the Voter ID Card No. JPF 0724419 dated 15.11.2013 (Annexure-A) of the Appellant/Claimant is a duplicate Voter ID Card and the original must have been issued much prior to 15.11.2013 because this Voter ID Card No. JPF 0724419 has been reflected in the Voter list of 2012 and onward. However, the original Voter ID Card No. JPF 0724419 has not been placed on file by the Appellant/Claimant and accordingly the date on which it was originally issued cannot be ascertained but merely not tendering the original Voter ID Card is of no consequence and it is no valid ground to deny the relief of alternative allotment to him when he fulfill all the mandatory conditions. Furthermore, the fact remains that the Voter ID Card No. JPF 0724419 (Annexure-A) is a valid document and it was in existence in the years from 2012 to 2015 because it has been duly reflected in the Voter List of the years from 2012 to 2015 (Annexure- L to Annexure-O).

33. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the Appellant/Claimant has also tendered his Voter ID Card No. JPF 0724419 dated 15.11.2013 (Annexure-A), Aadhar Card No. 8692 2398 9896 dated 23.09.2011 (Annexure-B), PAN Card (Annexure-C). The Letter No. AERO/AC-17/2024/144 dated 13.04.2024 (Annexure-K) of AERO/AC-17 Wazirpur also shows that the Voter ID Card No. JPF 0724419 (Annexure-A) is a valid document as per the records of the Election Commission and further this Voter ID Card has been reflected in the Voter List of the years 2012 to 2015 and furthermore, the name of the Appellant/Claimant appears at Sl. No. 146 in the Voter List of the year 2012 (Annexure-L), at Sl. No. 148 in the Voter List of the year 2013 (Annexure-M), at Sl. No. 163 in the Voter List of the year 2014 (Annexure-N) and at Sl. No. 180 in the Voter List of the year 2015 (Annexure-O) and in all these Voter Lists the number of the Voter ID Card of the Appellant/Claimant has been mentioned to be bearing Voter ID Card No. JPF 0724419 and in all the above referred documents (Annexure-A, Annexure-B and Annexure-L to Annexure-O) the address of the Appellant/Claimant is mentioned to be Jhuggi No. G-84 regarding which he has been claiming allotment from DDA.

34. It is also pertinent to point out that the DUSIB policy has been adopted by DDA. The legal question as to whether the claim of JJ dweller is liable to be rejected solely because his name

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does not appear in Electoral Rolls of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey even though he was having a valid Voter ID Card on the cutoff date of 01.01.2015 and also in spite of the fact that he also possess other documents to corroborate her residence and existence in the concerned Jhuggi Jhopri basti was the matter directly involved in the matter before Hon'ble High Court of Delhi relating to the DUSIB policy, which had been adopted by DDA, and it has been dealt in the judgment of **Udal v. Delhi Urban Shelter Improvement Board and Ors[2] 2017 SCC OnLine Del 9715.**

35. It is pointed out that in Udal's case (supra) the Hon'ble High Court of Delhi has found that the petitioners have produced the documents, including the National Food Security Card, Ration Card, Gas/Oil Bill, Electricity Bill, BSES Meter Change Report, School Leaving Certificates, School Progress Report of Children, Report Card of Children, Aadhar Cards, Driving Licences, Passbooks, PAN Card, Death Certificate of the Spouse of one of the parties, LIC Policy but they could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy. The Hon'ble High court held as under: -

> *"33. .....Therefore, even though these petitioners could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy, however, if an holistic view is undertaken of the documentation as produced, it would amply establish the residence and existence of these persons at the Rajiv Camp for the periods from 1998 till 2016."*
>
> *"38. Mr. Parvinder Chauhan, ld. Standing Counsel for respondent no.1 has staunchly contended that the requirement of Clause 1(iii) of Part-B of R& R Policy to the effect that the name of the person must feature in the electoral roll for any of the prescribed five years, is mandatory and the failure for the name to appear in such electoral roll must be fatal so far as consideration for allotment of alternative flat for rehabilitation under the R&R Policy is concerned. In the given facts and circumstances, we are unfortunately unable to agree with this submission. The records placed by these persons include National Food Security Cards, Ration Cards, Oil/Gas Bill, SC/ST Certificates, Electricity Bill, LIC Policies, Gas Connection Records and Bills, Driving Licences, Passbooks, Birth Certificate of Children as well as records of School Admission of Children, their Progress Report Cards, all of which show their continued existence on the spot. A realistic view has to be taken in this regard. We find that the persons who were found ineligible were in possession of public identification including*

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Voter ID - cards. The failure of the names of such persons to feature in the electoral roll could be for any number of reasons. The same could happen, if the person was not at home at the time the Booth Level Officer visited Jhuggi of the person concerned. This could be on account of the occupation of the person or for the person and adults of the family having left the Jhuggi for work. Obviously, the Booth Level Officer or any persons conducting the survey would not have met the adult members of the family. There would thus not be any adult members of the family to give the information for names to be included in the electoral rolls."

"40. We find that as per Clause 2 of PART - B of the R&R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents. In the above cases, the Jhuggi Jhopri dwellers have produced multiple records ranging to periods in the late 1990s till date. In this view of the matter, the persons detailed in paras 37 and 38 above are clearly entitled to the benefit of the policy. We are of the view that the ineligibility letter dated 22nd December, 2016 by the respondents have been issued to these persons because of a disjoint reading of Clause 1(iii) and Clause 2 of PART - B of the policy. The same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1(iii) and Clause 2 of Part-B of the R&R Policy, 2015."

36. Therefore, the present appeal is squarely covered by the facts of Udal's case (supra) decided by the Hon'ble High Court of Delhi wherein it has been held that as per Clause 2 of PART-B of the R & R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents and we cannot give a disjoint reading of Clause 1 (iii) and Clause 2 of PART – B of the policy but the same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1 (iii) and Clause 2 of PART-B of the R & R Policy, 2015.

37. On this aspect it is pertinent to point out that when the Jhuggi of the Appellant/Claimant is found to exist on the cutoff date of 01.01.2015 and he is also found to be having a Aadhar Card and also a valid Voter ID Card on the cutoff date of 01.01.2015 and also he possesses "any one" document out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 then his claim can not be rejected by taking hyper technical view especially when he was having a valid Voter ID Card dated 15.11.2013 (Annexure-A) &

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Aadhar Card dated 23.09.2011 (Annexure-B) on the cutoff date of 01.01.2015 and further his name also appears continuously in the Voter Lists from the years 2012 to 2015 (Annexure-L to Annexure-O) and he as well his family are having documents to show that they have been living in the said Jhuggi much prior to the cutoff date of 01.01.2015.

38. Therefore, the material placed on file shows that the Appellant/Claimant was having a valid Voter ID Card (Annexure-A) & also Aadhar Card (Annexure-B) on the cutoff date of 01.01.2015 and further his name also appears in the voter list of the year's from 2012 to 2015 (Annexure-L to Annexure-O) and therefore the Appellant/Claimant is having the requisite documents and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA

39. Now we shall appraise the material placed on file to determine as to whether there are documents placed on file to shows that the Appellant/Claimant along with his family was living in Jhuggi No. G-84 since long and more particularly on the cutoff date of 01.01.2015 and whether the family members of the Appellant/Claimant have got the documents issued in their favour prior to the cutoff date of 01.01.2015 to lent support to the claim put forward by the Appellant/Claimant.

40. The Appellant/Claimant has also tendered the Voter ID Card No. WHC 2003027 (Annexure-D) & Aadhar Card No. 2452 3860 4020 (Annexure-E) of his wife Priya as well as the Passbook of Bank of Baroda (Annexure-F), the Passbook of Indian Overseas bank (Annexure-G), the Electricity Bill (Annexure-H), the Ration Cards (Annexure-I & Annexure-J), Letter No. AERO/AC-17/2024/145 dated 13.04.2024 (Annexure-S) of AERO, AC-17 Wazirpur, Voter List of the year 2014 (Annexure-P) and Voter List of the year 2015 (Annexure-Q) in support of his claim.

41. It is pointed out that the Voter ID Card No. WHC 2003027 (Annexure-D) of his wife Priya has been issued on 15.01.2013, much prior to the cutoff date 01.01.2015. It is also pointed out that the Aadhar Card No. 2452 3860 4020 (Annexure-E) of his wife Priya. Furthermore, the Letter No. AERO/AC-17/2024/145 dated 13.04.2024 (Annexure-S) of AERO, AC-17 Wazirpur shows that the Voter ID Card No. WHC 2003027 (Annexure-D) of his wife Priya is a valid document as per the records from the Election Commission and her name also appears in the Voter List of the years 2014 & 2015.

42. It is pointed out that the name of the wife of the Appellant/Claimant Priya appears at Sl. No. 164 in the Voter List of the year 2014 (Annexure-P) and at Sl. No. 181 in the Voter List of the

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year 2015 (Annexure-Q). It is pointed out that in the Voter List of the year 2014 (Annexure-P) and Voter List of the year 2015 (Annexure-Q), the number of the Voter ID Card of his wife Priya is mentioned to be WHC 2003027 and furthermore, in all the documents (Annexure-D, Annexure-E, Annexure-P & Annexure-Q) the address is mentioned to be Jhuggi No. G-84 regarding which the Appellant/Claimant has been claiming allotment from DDA.

43. It is also pointed out that the Passbook of Bank of Baroda (Annexure-F) shows that the Appellant/Claimant had opened the account on 19.11.2003, much prior to the cutoff date 01.01.2015. The Passbook of Indian Overseas bank (Annexure-G) shows that his wife Priya had opened the account on 27.08.2014, much prior to the cutoff date 01.01.2015. It is also pointed out that in both the Bank Passbooks (Annexure-F & Annexure-G), the address is mentioned to be Jhuggi No. G-84 regarding which the Appellant/Claimant has been claiming allotment from DDA. Furthermore, the Electricity Bill (Annexure-H) also shows that the Appellant/Claimant had taken electricity connection on the address of Jhuggi No. G-84 on 21.02.2008, much prior to the cutoff date 01.01.2015.

44. It is further pointed out that the Appellant/Claimant has tendered two Ration Cards (Annexure-I & Annexure-J). The old Ration Card No. BPL 532330117 (Annexure-I) has been issued in favour of his father, Ram Kawal on 04.08.2008 and the name of the Appellant/Claimant is mentioned. The new Ration Card No. 077002578559 (Annexure-J) has been issued in favour of his mother, Uttarin and the name of the Appellant/Claimant and that of his wife have also been mentioned but the date of issuance is not mentioned.

45. Therefore, as per our discussion above the material placed on file fully corroborate that the Appellant/Claimant along with his family members was living in the Jhuggi No. G-84 since long and much prior to the Cutoff date of 01.01.2015 further the Jhuggi No. G-84 was put to mixed use for residential-cum-commercial purposes on the cutoff date of 01.01.2015.

46. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the Appellant / Claimant has also tendered the Voter ID Card No. WHC 2003027 (Annexure-D) dated 15.01.2013 & Aadhar Card (Annexure-E) of his wife Priya on the address of Jhuggi No. G-84 regarding which the Appellant / Claimant has been claiming allotment from DDA and her name appears Voter List of the year 2014 (Annexure-P) and Voter List of the year 2015 (Annexure-Q) as per the Letter dated 13.04.2024 (Annexure-S) of AERO, AC-17 Wazirpur. The Passbook of Bank of Baroda (Annexure-F) shows that the Appellant / Claimant had opened the account on 19.11.2003 and

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the Passbook of Indian Overseas bank (Annexure-G) shows that his wife Priya had opened the account on 27.08.2014 on the address of Jhuggi No. G-84 regarding which the Appellant/Claimant has been claiming allotment from DDA. Furthermore, the Electricity Bill (Annexure-H) shows that the Appellant/Claimant had taken electricity connection on the address of Jhuggi No. G-84 on 21.02.2008.

47. The Appellant/Claimant has tendered Voter ID Cards & Aadhar Cards belonging to him and family members, Electoral Rolls, Bank Passbooks, Electricity Bill & Ration Cards etc. and all these documents have been issued from 2012 to 2015 and it accordingly amply establishes that he as well as his family members have been living in the triple storey Jhuggi No. G-84, Jailorwala Bagh, Ashok Vihar, since long and more particularly on the cutoff date of 01.01.2015 and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

48. The material placed on file shows that the triple storey pucca Jhuggi No. G-84 of the Appellant/ Claimant was in existence much prior to the cutoff date 01.01.2015 and further up till 2017 it was put to mixed used for residential-cum-commercial purposes for running a grocery shop by his father Ram Kawal from the ground floor whereas the upper floors were used for residential purposes. Furthermore, after his death 2017 all the three floors of the said triple storey Jhuggi No. G-84 has been exclusively used for residential purposes. Thus the material placed on file shows that the entire triple storey Jhuggi No. G-84 was put to mixed use for residential-cum-commercial purposes on the cutoff date of 01.01.2015 and after 2017 it has been put to exclusively use for residential purposes and further as per our discussion above, the documents, Annexure-A, Annexure-B and Annexure- L to Annexure-O, shows that the Appellant/Claimant was having a valid Voter ID Card (Annexure-A) & Aadhar Card (Annexure-B) on the cutoff date of 01.01.2015 and his name also appears in the voter list of the year's 2012 to 2015 (Annexure- L to Annexure-O) as the Voter ID Card WHC 2028702 (Annexure-A) of the Appellant/Claimant have been issued on 15.11.2013 and Aadhar Card No. 8692 2398 4419 (Annexure-B) of the Appellant/Claimant have been issued on 23.09.2011 and thus undisputedly both the documents have been issued much prior to the cutoff date of 01.01.2015 on the address of Jhuggi No. G-84 regarding which he is claiming allotment from DDA. In addition to that the Passbook of Bank of Baroda (Annexure-F) shows that the Appellant/Claimant had opened the account on 19.11.2003, much prior to the cutoff date of 01.01.2015 and the Passbook of Indian Overseas Bank (Annexure-G) shows that Priya, who is the wife of Appellant/Claimant, had opened the account on 27.08.2014

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much prior to the cutoff date of 01.01.2015 and further in these documents the address is also mentioned to be Jhuggi No. G-84 regarding which the Appellant/Claimant has been claiming allotment from DDA. Furthermore, the Electricity Bill (Annexure-H) shows that the Appellant/Claimant had taken electricity connection on 21.02.2008, much prior to the cutoff date of 01.01.2015 and in that document also the address is mentioned to be Jhuggi No. G-84 regarding which the Appellant/Claimant has been claiming allotment from DDA. The Electricity Bill (Annexure-H) is covered as one of the documents in the list of the 12 documents as enlisted in Clause 2 of the DDA policy, 2015. This shows that the Appellant/Claimant is also having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. The old Ration Card No. BPL 532330117 (Annexure-I) has been issued in favour of his father, Ram Kawal on 04.08.2008 and the name of the Appellant/Claimant is mentioned. The new Ration Card No. 077002578559 (Annexure-J) has been issued in favour of his mother, Uttarin and the name of the Appellant/Claimant and of his wife have also been mentioned but the date of issuance is not mentioned and both the Ration Cards have been issued on the address of the Jhuggi No. G-84 regarding which the Appellant/Claimant has been claiming allotment from DDA. Furthermore, the Voter ID Card No. WHC 2003027 (Annexure-D) of his wife Priya has been issued on 15.01.2013, much prior to the cutoff date of 01.01.2015 and her name also appears in the Voter List of the years 2014 & 2015 (Annexure-P & Annexure-Q) and further this Voter ID Card (Annexure-D) as well as her Aadhar Card No. 6600 7614 9026 (Annexure-E) have been issued on the address of the Jhuggi No. G-84 regarding which the Appellant/Claimant has been claiming allotment from DDA. Furthermore, these documents also corroborate that the Appellant/Claimant along with his family members was living in the Jhuggi No. G-84 since long and much prior to the Cutoff date of 01.01.2015 further the Jhuggi No. G-84 was put to mixed use for residential-cum-commercial purposes on the cutoff date of 01.01.2015. In the light of our detailed discussion, we have no hesitation in holding that the Appellant/ Claimant was having all the requisite documents and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

49. In view of our findings above, we have no hesitation in holding that the room on the ground floor was used by his father Ram Kawal during his lifetime for running a grocery shop and also for sleeping purposes by him whereas rooms on the first floor & second floor of Jhuggi No. G-84 were used for residential purposes by the Appellant/Claimant & other family members. However, after the death of his father Ram Kawal in the year 2017, the grocery

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shop was closed and the Appellant/Claimant along with both the rooms on the first & second floor, as done in the past, had also started using the said room on the ground floor exclusively for residential purposes, therefore, on the cutoff date of 01.01.2015 the Jhuggi No. G-84 was put to mixed use for residential-cum-commercial purposes and further the Appellant/Claimant was having a valid Voter ID Card & Aadhar Card on the cutoff date of 01.01.2015 and further his name also appears in the voter list of the year's 2012, 2013, 2014 and 2015 and further he was also having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and accordingly the Appellant/Claimant is entitled to claim alternate allotment from DDA as per the policy guidelines issued by DDA. But the Eligibility Determination Committee has wrongly and illegally rejected his claim. Hence the present appeal No. 122 of 2024 stands allowed, hereby, setting aside the impugned order communicated vide order bearing No. 350-33/002.G dated 01.07.2023 issued by the Nodal Officer. DDA is hereby directed to make allotment in favour of Appellant/ Claimant, Pawan Kumar S/o Ram Kawal, in respect of the triple storey Jhuggi No. G-84, Jailorwala Bagh, Ashok Vihar.

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

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

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

Appeal No: 114 of 2024

Date of Institution: 13.07.2023

Date of Order: 30.07.2024

Present: Appellant/ Claimant Jadota W/o Pappu

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. I-10 (N-207/23), Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. I-10 (N-207/23) was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the

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Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-41/20.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 114 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 13.05.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. I-10 (N-207/23) was found to exist but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. I-10 (N-207/23) as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Jadota has been recorded before us on 13.05.2024 wherein she has stated that she is married with Pappu and having two sons Manoj & Vinod and two daughters, Sikha & Seema. All the children except Vinod & Sikha are married. Seema

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is married with Vijay and she is living in her matrimonial home at Jaunpur, Uttar Pradesh. Manoj is married with Puja and having one daughter Riyanshi. Manoj had gone to Saudi Arabia few months ago and his wife Puja and daughter Riyanshi are living in their native village in district Azamgarh, Uttar Pradesh along with his unmarried brother Vinod & sister Sikha. The Appellant/Claimant Jadota is also living in Azamgarh, Uttar Pradesh and she is frequently visiting her husband Pappu who is living in Jhuggi No. I-10(N-207/23) in Jailorwala Bagh, Ashok Vihar.

9. The Appellant/Claimant has stated that she is having a double storey Jhuggi No. I-10 (N-207/23) and it comprises of one room on each floor and a bamboo ladder is placed outside in the gali and it is used for going to the upper floor. The Appellant/Claimant has sought allotment from DDA against the said double storey Jhuggi No. I-10 (N-207/23) but her claim has been rejected on the grounds that she has been found to have claimed allotment against the upper floor and further her Voter ID Card could not be verified in spite of the fact she has admittedly claimed allotment from DDA against the said double storey Jhuggi No. I-10 (N-207/23) and further she is having all the requisite documents and accordingly aggrieved by the same she has filed the present Appeal No. 114 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered document, Annexure-A to Annexure-K, in support of her claim and prayed that DDA be directed to make allotment in her favour.

10. DDA has furnished survey records along with one video clip of Jhuggi No. I-10 (N-207/23). As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. I-10 (N-207/23) on 22.03.2020 on the ground floor of the said Jhuggi and her photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography Pappu, who is the husband of the Appellant/Claimant was very much present and he had got the survey/videography conducted on behalf of her wife Jadota and the video clip is also attached in token thereof.

11. DDA has furnished the survey records along with one video clips of Jhuggi No. I-10 (N-207/23). The video clip was played before the Appellant/Claimant when her statement was recorded before us on 13.05.2024 wherein the Appellant/Claimant has stated the video clip pertains to the Jhuggi No. I-10 (N-207/23) and from outside the said Jhuggi No. I-10 (N-

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207/23) is clearly seen to be a double storey structure and further a bamboo ladder is also seen placed outside in the gali and used for going to the upper floor and further, her husband Pappu is seen and getting the survey conducted on the behalf of the Appellant/Claimant and he is also heard stating that his wife Jodota (Appellant/Claimant) has gone out to their native village to attend marriage and further Pappu is seen holding a slate in his hand on which **"I-10 (N-207/23) JADOTA G+1"** is seen to have been written.

12. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case about the existence of the double storey Jhuggi No. I-10 (N-207/23). Thus the statement of the Appellant/Claimant has duly proved that the double storey Jhuggi No. I-10 (N-207/23) was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family is living in the said double storey Jhuggi No. I-10 (N-207/23) and is using the same for residential purposes.

13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. I-10 (N-207/23) was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still living on the ground floor of the said double storey Jhuggi No. I-10 (N-207/23) and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the ground floor of the said double storey Jhuggi.

14. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the ground floor of the said double storey Jhuggi No. I-10 (N-207/23) as per the policy guidelines issued by DDA.

15. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-K, in support of her claim and prayed that DDA be directed to make allotment against the ground floor of the said double storey Jhuggi No. I-10 (N-207/23) 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

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Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-41/20. G dated 01.07.2023.

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.

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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."

18. It is mandated that there is verification in terms of biometric authentication via Aadhar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the

Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

19. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

20. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

21. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

22. Thus Clause 1 (10) of Part–B of the DDA policy makes the requirement of having a separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card,

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

23. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

24. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

25. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a

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stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

27. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

28. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for

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obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

29. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

30. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of

evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

31. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

32. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

35. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

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

37. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

38. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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

40. It is pointed out that we have already held that the double storey Jhuggi No. I-10 (N-207/23) was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the

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Appellant/ Claimant.

41. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the said double storey Jhuggi No. I-10 (N-207/23) as per the policy guidelines issued by DDA.

42. The Appellant/Claimant has tendered her Aadhar Card (Annexure-A) and PAN Card (Annexure-B) in support of her claim.

43. It is pointed out that the Appellant/Claimant has tendered her Aadhar Card (Annexure-A) & PAN Card (Annexure-B) but she has not tendered her Voter ID Card issued on the address of Jhuggi No. I-10 (N-207/23) regarding which she is claiming allotment from DDA. The Appellant/Claimant has stated that she is not having any Voter ID Card issued on the address of Jhuggi No. I-10 (N-207/23) regarding which she is claiming allotment from DDA.

44. Here, it is pertinent to point out that the Appellant/Claimant has stated that she along with her unmarried children, Vinod & Sikha, as well as the wife and child of her son Manoj, who has gone to Saudia Arabia, is living in her native village in district, Azamgarh, Uttar Pradesh and she has been frequently visiting her husband Pappu who is living in Jailorwala Bagh, Ashok Vihar and this shows that the Appellant/Claimant might be having Voter ID Card issued on the address of her native village in district Azamgarh, Uttar Pradesh that is why she has not tendered her Voter ID Card. Furthermore, it is pointed out that in the video clip prepared by the survey team, her husband Pappu is seen and getting the survey conducted on the behalf of the Appellant/Claimant and he is also heard stating that his wife Jadota (Appellant/Claimant) has gone to their native village to attend a marriage and this further shows that had the Appellant/Claimant been living with her husband Pappu in Jhuggi No. I-10 (N-207/23) in Jailorwala Bagh, Ashok Vihar, then she would have definetly come forward to get the survey conducted by the survey team, DDA especially when DDA has conducted extensive survey in Jailorwala Bagh, Ashok Vihar, which had consumed several months.

45. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. I-10 (N-207/23) regarding which she has been claiming allotment from DDA and further her name

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

46. The Appellant/Claimant has tendered the two Voter ID Cards (Annexure-C & Annexure-D), Aadhar Card (Annexure-E), PAN Card (Annexure-F), Voter List of the year 2013 (Annexure-J) and Voter List of the Year 2014 (Annexure-K) of her husband Pappu in support of her claim.

47. It is pointed out that the Appellant/Claimant has tendered the two Voter ID Cards (Annexure-C & Annexure-D) of her husband Pappu but the Appellant/Claimant has failed to explain the reasons as to why her husband Pappu has got two Voter ID Cards issued in his favour. The first Voter ID Card (Annexure-C) is bearing number JPF 0728840 and it has been issued on 11.08.2002, much prior to the cutoff date 01.01.2015. The second Voter ID Card (Annexure-D) is bearing number WHC 1845832 and it has also been issued on 08.10.2012, much prior to the cutoff date 01.01.2015. This shows that the second Voter ID Card No. WHC 1845832 (Annexure-D) got issued from Election Commission thereby concealing the material fact that Pappu was already having Voter ID Card No. JPF0728840 (Annexure-C) issued in his favour. Furthermore, the name of Pappu appears at Sl. No. 954 in the Voter List of the year 2013 (Annexure-J) and at Sl. No. 827 in the Voter List of the Year 2014 (Annexure-K). However, no Voter List is tendered to show that her husband Pappu had used the first Voter ID Card No. JPF 0728840 (Annexure-C) to cast vote in any of the election. However, it is pointed out that these documents are not relevant to determine the eligibility of the Appellant/Claimant especially when she was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. I-10 (N-207/23) regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

48. The Appellant/Claimant has tendered Electricity Bill (Annexure-G), Ration Card No. 077004428835 (Annexure-H) and the Passbook of Indian Bank (Annexure-I) in support of her claim.

49. It is pointed out that the Electricity Bill (Annexure-G) shows that her husband Pappu had taken electricity connection on 07.08.2013. The Ration Card No. 077004428835 (Annexure-H) has been issued in favour of the Appellant/Claimant and the name of her husband is mentioned but the date of issuance is not mentioned. The Passbook of Indian Bank

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(Annexure-I) shows that the Appellant/Claimant had opened the account on 18.04.2023, much after the cutoff date 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. I-10 (N-207/23) regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

51. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. I-10 (N-207/23) regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention

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and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-K, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

52. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-41/20.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

53. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.20232passed by Hon'ble High Court of Delhi in WP(C) No. 6728/20232and C.M. Appeal 25594/20232titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

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

Appeal No: 186 of 2024

Date of Institution: 18.07.2023

Date of Order: 29.07.2024

Present: Appellant/ Claimant Pappu Ram S/o Gattu Saroj

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. G-33, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. G-33 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the

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Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-205/004.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 186 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 24.06.2024.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. Radhey Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. G-33 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Second documents: JJ dwellers fail to submit one of the 12 documents issued before 01.01.2015 as prescribed"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the Jhuggi No. G-33 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Papu Ram has been recorded before us on 24.06.2024 wherein he has stated that he is married with Tara Devi and having four children;

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Jai Prakash, Vishal, Ranju & Lajjo. All the children except Ranju are unmarried. Ranju is married with Rajan and she is living in her matrimonial home in Azamgarh, Uttar Pradesh. Tara Devi as well as all the three unmarried children; Jai Prakash, Vishal & Lajjo, are also living in their native village in Azamgarh, Uttar Pradesh whereas the Appellant/Claimant Papu Ram is living alone in Jailorwala Bagh, Ashok Vihar.

9. The Appellant/Claimant has stated that he is having a single storey Jhuggi No. G-33 in Jailorwala Bagh, Ashok Vihar and it comprises of one room and having two walls made with tin and the roof is also made with tin and against that the Appellant/Claimant has sought allotment from DDA but his claim has been rejected by Eligibility Determination Committee on the ground that **"Second documents: JJ dwellers fail to submit one of the 12 documents issued before 01.01.2015 as prescribed"** in spite of the fact that he has claimed allotment against the single storey Jhuggi No. G-33 and further he is having all the requisite documents as per policy guidelines issued by DDA and also that and accordingly, aggrieved by the same, he has filed the present Appeal No. 186 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

10. DDA has furnished survey records along with one video clip of Jhuggi No. G-33. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. G-33 on 18.04.2020 on the ground floor of the said Jhuggi and his photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

11. DDA has furnished survey record along with one video clip. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 24.06.2024 wherein he has stated that the video clip pertains to the Jhuggi No. G-33 in which the Jhuggi No. G-33 is clearly seen from outside to be a single storey structure having two walls made with tin and the roof is also made with tin and further, the Appellant/Claimant is seen and getting the survey conducted and his room & kitchen are also seen and he is also seen thereby holding a slate in his hand on which **"G-33 PAPU RAM G.F"** is clearly seen to have been written.

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12. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the single storey Jhuggi No. G-33. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the single storey Jhuggi No. G-33 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is living in the said single storey Jhuggi No. G-33 and using the same for residential purposes.

13. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. G-33 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant was & is still using the said single storey Jhuggi No. G-33 for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi.

14. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the single storey Jhuggi No. G-33 as per the policy guidelines issued by DDA.

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

17. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

18. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

19. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

22. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

23. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the

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dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

24. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

26. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential

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commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

27. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

28. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the

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petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

29. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

30. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

31. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16

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were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

34. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age

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and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

36. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

37. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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

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39. It is pointed out that we have already held that the single storey Jhuggi No. G-33 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

40. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the single storey Jhuggi No. G-33 as per the policy guidelines issued by DDA.

41. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), Internet Report (Annexure-D), Letter No. F. No. AERO/AC-17/2024/190 dated. 27.05.2024 (Annexure-F) issued by AERO, AC-17, Wazirpur, Voter List of the year 2012 (Annexure-G), Voter List of the year 2013 (Annexure-H), Voter List of the year 2014 (Annexure-I) and Voter List of the year 2015 (Annexure-J) in support of his claim.

42. It is pointed out that the Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B). The first Voter ID Card is bearing number JPF 0705749 (Annexure-A) and it has been issued on the address of the Jhuggi No. G-33, Jailorwala Bagh, Ashok Bihar on 24.06.2002.

43. Furthermore, the Appellant/Claimant has also tendered his second Voter ID Card bearing No. FGL 1749001 (Annexure-B), which has been issued on the address of Azamgarh, Uttar Pradesh on 01.10.2002. This shows that the second Voter ID Card No. FGL 1749001 dated 01.10.2002 (Annexure-B) was got issued after about four months of issuance of the first Voter ID Card No. JPF 0705749 dated 24.06.2002 (Annexure-A). It is not disputed that no citizen can have two Voter ID Cards issued in his name. However, the fact of the present case is very peculiar in nature because the first Voter ID Card (Annexure-A) was got issued on

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24.06.2002 on the address of the Jhuggi No. G-33, Jailorwala Bagh, Ashok Bihar, Delhi and after four months, the Appellant/Claimant had got the second Voter ID Card issued on 01.10.2002 on the address of his native village in Azamgarh, Uttar Pradesh. This shows that the second Voter ID Card (Annexure-B) was got issued by the Appellant/Claimant when he very well knew that he already was having the first Voter ID Card issued in his favour but he had got the second Voter ID Card issued by concealing material facts from the Election Commission. Moreover, the act and conduct of the Appellant/Claimant in getting the second Voter ID Card (Annexure-B) issued shows that he does not want to use the first Voter ID Card (Annexure-A) to cast vote and for other miscellaneous purposes. The issuance of the second Voter ID Card (Annexure-B) will override the first Voter ID Card (Annexure-A) because the second Voter ID Card (Annexure-B) was got issued much after the issuance of the first Voter ID Card (Annexure-A).

44. The Appellant/Claimant has tendered the Letter No. F. No. AERO/AC-17/2024/190 dated 27.05.2024 (Annexure-F) issued by AERO, AC-17, Wazirpur thereby verifying the Voter ID Card No. JPF 0705749 to be a valid document as per records of the Election Commission and furthermore, this Voter ID Card is also reflected in the Voter List of the year 2012 to 2015. It is also pointed out that the name of the Appellant/Claimant appears at Sl. No. 64 in the Voter List of the year 2012 (Annexure-G), at Sl. No. 64 in the Voter List of the year 2013 (Annexure-H), at Sl. No. 83 in the Voter List of the year 2014 (Annexure-I) and at Sl. No. 94 in the Voter List of the year 2015 (Annexure-J) and further, in all these Voter Lists (Annexure-G to Annexure-J), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be JPF 0705749 (Annexure-A) and further, his address is also mentioned to be Jhuggi No. G-33, regarding which he is claiming allotment from DDA. However, the fact cannot be lost sight that the Appellant/Claimant had got the second Voter ID Card (Annexure-B) issued on 01.10.2002 on the address of his native village in Azamgarh, Uttar Pradesh but he has intentionally not tendered the Voter List of the area where he had used the Voter ID Card (Annexure-B) to cast vote.

45. The material placed on file shows that the Appellant/Claimant has got two Voter ID Cards (Annexure-A & Annexure-B) issued. The first Voter ID Card was got issued on the address of Jhuggi No. G-33, Jailorwala Bagh, Ashok Vihar on 24.06.2002 and the second Voter ID Card (Annexure-B) was got issued on the address of his native village in Azamgarh, Uttar Pradesh on 01.10.2002 and further, both have been used to cast vote. This shows that the

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Appellant/Claimant had used parallel documents issued on two different addresses and he has tried to use these documents to grab alternative allotment form DDA by hook or crook. It is also pointed out that the Appellant/Claimant has tendered the Aadhar Card (Annexure-C) bearing No. 3059 2290 5928 and as per the Internet Report (Annexure-D), this Aadhar Card (Annexure-C) has been issued on 26.07.2017, much after the cutoff date of 01.01.2015. This shows that the Appellant/Claimant has got this Aadhar Card (Annexure-C) issued on the address of the Jhuggi No. G-33, Jailorwala Bagh much after the cutoff date of 01.01.2015 in order to cheat and defraud DDA for claiming alternative allotment from DDA, therefore, the Appellant/Claimant is not entitled for claiming alternate allotment from DDA.

46. The Appellant/Claimant has also tendered Electricity Bill (Annexure-E) in support of his claim.

47. It is pointed out that this Electricity Bill (Annexure-E) shows that the electricity connection has been taken by the Appellant/Claimant on 19.02.2015, much after the cutoff date of 01.01.2015. It is also pertinent to point out that the Appellant/Claimant has specifically stated that his wife and all the three unmarried children, Jai Prakash, Vishal & Lajjo, are living in their native village in District Azamgarh, Uttar Pradesh and they are having documents on the address of Azamgarh. As pointed out above, the Appellant/Claimant is having Voter ID Card (Annexure-A) issued on 24.06.2002 on the address of the Jhuggi No. G-33, Jailorwala Bagh and further, his name also appears in the Voter List of the year 2012 to 2015 (Annexure-G to Annexure-J) on the basis of the Voter ID Card No. JPF 0705749 but the facts cannot be lost sight that he had got the second Voter ID Card (Annexure-B) issued on 01.10.2002 on the address of his native village in Azamgarh, Uttar Pradesh as he never intend to use the first Voter ID Card dated 24.06.2002 (Annexure-A). As already pointed out above, the second Voter ID Card (Annexure-B) was got issued on 01.10.2002 whereas the first Voter ID Card (Annexure-A) was got issued on 24.06.2002. Moreover, the Aadhar Card (Annexure-C) was also got issued on 26.07.2017, much after the cutoff date of 01.01.2015 in order to create documents to support his claim. The Electricity Bill (Annexure-E) also shows that he had taken the electricity connection on 19.02.2015, much after the cutoff date of 01.01.2015. This shows that the Appellant/Claimant was having Voter ID Card issued on the cutoff date of 01.01.2015 and further, his name also appears in the Voter Lists of the year 2012 to 2015 (Annexure-G to Annexure-J) but the Appellant/ Claimant was not having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and accordingly, the Eligibility Determination Committee has rightly rejected his claim.

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

49. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Appellant/ Claimant was not having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with his family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-J, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

50. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-205/004.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being

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devoid of any merit.

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

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

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

Appeal No: 239 of 2024

Date of Institution: 27.07.2023

Date of Order: 25.07.2024

Present: Appellant/ Claimant Sushila W/o Parsadi

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

ORDER

1. 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-16, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-16 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-74/33.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 239 of 2024 has been filed by the present Appellant/ Claimant.

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2. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhe Shyam Meena, Dy. Director.

3. The statement of the Appellant/Claimant has been recorded before us on 19.07.2024. The Appellant/Claimant has also examined Dalip S/o Chottan and Dharminder S/o Chottan and has also tendered documents, Annexure-A to Annexure-Y, in support of her claim. In view of the letter bearing U.O. NO. F2(ISR)/AA/PMAY/37 dated 03.06.2024, whereby the observations made by Principal Commissioner (Housing) and worthy Vice Chairman, DDA have been annexed, the representatives of PMAY-ISR Department of DDA has also examined Sh. Dilshad Ahemad, Assistant Director, and his statement has also been recorded before us on 19.07.2024. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

4. Arguments advanced by the Appellant/Claimant as well as Sh. Radhe Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

5. It is the admitted fact that as per survey records, the Appellant / Claimant's Jhuggi bearing No. C-16 was found to exist but she had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternative allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not verified"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

6. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. C-16 as per the policy guidelines issued by DDA.

7. The Appellant/Claimant Sushila W/o Parsadi is related to Dalip & Dharminder both S/o Chottan being their real aunt. The Appellant/Claimant Sushila W/o Parsadi as well as Dalip

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S/o Chottan & Dharminder S/o Chottan have been recorded before us on 19.07.2024 wherein they have stated that Lakhan Sah & Bimla (In-laws of Sushila W/o Parsadi and grandparents of Dalip Dharminder Ss/o Chottan) were having four sons, Kameshwar, Parsadi, Arjun & Chhottan. Kameshwar was married with Sunita and they are having nine children. Both Kameshwar & Sunita have expired and all of their nine children are living in Devghar, Bihar. Arjun had expired unmarried & issueless. Chhottan was married with Parmila and having two children, Dalip & Dharminder. Parmila had expired about 32 years ago & Chhottan had expired about 30 years ago. Parsadi was married with Sushila (Appellant/Claimant) and no children was born out of the wedlock and further, Parsadi had expired on 10.12.1991 and his Death Certificate is Annexure-J.

8. The Appellant/Claimant Sushila W/o Parsadi as well as Dalip S/o Chottan & Dharminder S/o Chottan have also stated that their family is having two adjoining Jhuggis bearing No. C-15 & C-16 in Jailorwala Bagh, Ashok Vihar and both the Jhuggis are double storey structure and they comprise of one room on each floor. One iron ladder is placed outside in the gali and it is used for going to the upper floor of the Jhuggi No. C-15 whereas a pucca staircase has been constructed outside in the gali and it is used for going to the upper floor of the Jhuggi No. C-16.

Jhuggi No. C-15

9. The Appellant/Claimant Sushila W/o Parsadi as well as Dalip S/o Chottan & Dharminder S/o Chottan have also stated that Dalip S/o Chottan along with his wife Phoolwati @ Baby and children is living in the double story Jhuggi No. C-15, Ashok Vihar, Jailorwala Bagh and regarding that double storey Jhuggi, DDA has made allotment in favour of Phoolwati @ Baby W/o Dalip. These facts are not disputed by DDA.

Jhuggi No. C-16

10. The Appellant/Claimant Sushila W/o Parsadi as well as Dalip S/o Chottan & Dharminder S/o Chottan have further stated that the Jhuggi of the Appellant/Claimant Sushila W/o Parsadi is a double storey structure and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali and it is used for going to the upper floor of the Jhuggi No. C-16. Since her husband Parsadi had died on 10.12.1991, therefore, her nephew Dharminder S/o Chhottan along with his family is living with the Appellant/Claimant in order to look after her as she is a widow and an old lady and further

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her physical activity has been restricted because of physical weakness even though in her younger days, she used to take active part in social and political activities. Previously the said Jhuggi was bearing number N-207/153 but subsequently the number was changed to C-16 and in some of the documents it is referred as Jhuggi No. N-207/153 and in others as Jhuggi No. C-16 whereas in some of the documents as C-16 (N-207/153).

11. The Appellant/Claimant has sought allotment from DDA against the said double storey Jhuggi No. C-16 but her claim has been rejected by the Eligibility Determination Committee on the ground that her Voter ID Card could not be verified in spite of the fact that she has admittedly sought allotment from DDA against the said double storey Jhuggi No. C-16 and further, she is having all the requisite documents as per policy guidelines issued by DDA accordingly, aggrieved by the same, she has filed the present Appeal No. 239 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-Y, in support of her claim and prayed that DDA be directed to make allotment in her favour.

REJECTION OF REPRESENTATION BY EDC VIDE ORDER DATED 08.08.2022

12. Now we shall appraise the material placed on file to show as to how the EDC had proceeded to deal with the claim and more particularly as to whether it was swayed by irrelevant matter or it has determined the claim of the Appellant/ Claimant fairly & independently.

13. It is not disputed that the claim of the Appellant/ Claimant was placed before the Eligibility Determination Committee (hereinafter called EDC). It is pertinent to point out that the claim of the Appellant/ Claimant was rejected by EDC on 08.08.2022 and the Nodal Officer, Jailor Wala Bagh, duly communicated its order bearing No. 350-74/33.G dated 01.07.2023 to the present Appellant/Claimant and the EDC Note dated 08.08.2022 (Annexure-X) is reproduced for better understanding of the facts and the grounds on which the claim of the present Appellant/ Claimant was rejected, as under: -

EDC Note dated 08.08.2022 (Annexure-X)

"1. While examining the present case for determination of eligibility, it was observed that there was some deficiency in the requisite documents as per policy guidelines. In this regard, a Public Notice was issued on 14.03.2022 for organised a camp from 01.06.2022 to 15.06.2022 at DDA site office Jailor wala site office, Ashok Vihar, Delhi-52. Wherein, the applicant/ claimant to give him/her an

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opportunity for submission of required documents. The applicant failed to submit requisite documents in spite of opportunity. As per survey record, the applicant jhuggi existed on Ground and the policy guidelines for alternate allotment in cases of Ground is as under:

2. As per policy guidelines, Part –B The eligibility criteria for allotment of alternative dwelling units for rehabilitation and relocation of JJ dwellers would be as under: - The name of JJ dwellers must appear in at least one of the Voter Lists of the Year's 2012,2013,2014,2015 (Prior to 01.01.2015) and also in the year of survey, for the purpose of rehabilitation. However, name of the applicant does not appear in voter lists of year 2012,2013,2014 and 2015 (prior to 01.0-1.2015) but not found in year of survey, the voter card number JPF 0683821 submitted by the applicant not found valid.

3. The applicant/claimant has also failed to submit valid voter ID card. Hence; the applicant/claimant does not fulfil the eligibility criteria. The applicant/claimant is found ineligible for alternative allotment"

14. The survey records placed on file shows that the Jhuggi of the Appellant/ Claimant was found to exist but her claim was rejected by EDC on 08.08.2022 on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

Furthermore, it is pertinent to point out that the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not verified"**.

15. The bare perusal of the Note dated 08.08.2022 (Annexure-X) also shows that it is no where disputed by DDA as far as the existence of the Jhuggi of the Appellant/ Claimant and also further about the Appellant/ Claimant along with her family having been found to be living there separately & independently and using it for residential purposes is concerned but her claim was rejected on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The fact as

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to whether the Appellant/ Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and her name appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) shall be discussed in detail by us in the later part of this order. Thus the fact remains that as per the stand of DDA the Appellant/ Claimant was having a separate dwelling unit bearing double storey Jhuggi No. C-16 except that she was allegedly not having all the requisite documents.

16. It is pointed out that DDA has also examined Dilshad Ahemad, Assistant Director, and his statement has also been recorded before us on 15.07.2024 wherein he has stated that the Appellant/Claimant has allegedly claimed alternative allotment against the double storey Jhuggi No. C-16 (N-207/153) in Jailorwala Bagh, Ashok Vihar and her claim for alternative allotment was rejected by Eligibility Determination Committee on 08.08.2022 (Annexure-X) on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. However, in the survey records it is mentioned that the survey/videography/photography was conducted on 17.03.2020 and in the survey records as well as in the Note of EDC dated 08.08.2022 (Annexure-X) it is mentioned that the Appellant/Claimant had tendered documents and the photographs taken at the time of survey have been annexed with the survey records wherein the address is mentioned to be C-16 and N-207/153, Jailorwala Bagh, Ashok Vihar. Furthermore, the perusal of the EDC Notes dated 08.08.2022 (Annexure-X) shows that the existence of Jhuggi of the Appellant/Claimant is not disputed by DDA.

17. DDA has furnished survey records along with two video clips of Jhuggi No. C-15 & C-16. As per survey records the survey was got conducted by the Appellant/Claimant of her Jhuggi No. C-16 (N-207/206) on 17.03.2020 on the ground floor of the said Jhuggi and the photograph of the Appellant/Claimant and also of various documents of the Appellant/Claimant are also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as details of family members is mentioned therein. Further, at the time of conducting of survey/videography the Appellant /Claimant was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

18. DDA has furnished survey record along with two video clips. The videos were played before

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the Appellant/Claimant Sushila W/o Parsadi as well as Dalip S/o Chottan & Dharminder S/o Chottan when their statements were recorded before us on 19.07.2024 wherein they have stated that the first video clip pertains to the double storey Jhuggi No. C-15 in which Phoolwati W/o Dalip is seen and getting the survey conducted and she is also heard thereby making a statement that the double storey Jhuggi belongs to them and furthermore, her room & kitchen are also seen and further, she is also seen holding a slate in her hand on which **"C-15 PHOOLWATI G+1"** is seen to have been written. The second video clip pertains to the Jhuggi No. C-16 in which from outside, the said Jhuggi is clearly seen to be a double storey Jhuggi and a pucca staircase is also seen going to the upper floor and further, the Appellant/Claimant Sushila W/o Parsadi along with her nephew Dharminder S/o Chottan is seen and she is also heard thereby making a statement that the double storey Jhuggi belongs to her and further, she is also seen holding a slate in her hand on which **"C-16 SUSHILA G+1"** is clearly seen to have been written.

19. Dilshad Ahemad, Assistant Director, has also admitted the correctness & genuineness of the survey records as well as the video clips pertaining to Jhuggi No.C-15 & C-16, which were prepared by the survey team of DDA and he has corroborated the statement of the Appellant/Claimant with regard to the existence of the double storey Jhuggi bearing number C-16 and also with regard to the present Appellant/Claimant along with her family having been found to be living separately & independently in Jhuggi No. C-16 and further, the Appellant/Claimant Sushila W/o Parsadi along with her nephew Dharminder S/o Chottan is seen and she is also heard thereby making a statement that the double storey Jhuggi belongs to her and further, she is also seen holding a slate in her hand on which **"C-16 SUSHILA G+1"** is clearly seen to have been written and these facts are also corroborated by the facts reflected in the EDC Notes dated 08.08.2022 (Annexure-X) wherein the existence of Jhuggi of the Appellant/Claimant is not disputed by DDA.

20. It is admitted in the course of arguments that there was no proper mechanism to give numbers to the dwelling units/Jhuggis in Jailorwala Bagh, Ashok Vihar. Pradhan of the RWA had come with an idea to give numbers to the Jhuggis and this was consented by all the dwellers. Therefore, the numbers on almost all the Jhuggis were given by the Pradhan/dwellers of their own without following any settled pattern. The procedure was not streamlined as some of the Jhuggis were given the same numbers. Further in the fire

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several Jhuggis of Jailor Wala Bagh, Ashok Vihar were destroyed about 20 years ago and the Jhuggis engulfed in the fire were reconstructed and even the numbers of Jhuggis were changed thereby giving new numbers to the freshly re-constructed Jhuggis. This led to changing of Jhuggi numbers in majority of cases and accordingly some of the documents bear old addresses whereas new documents were got issued by the dwellers on the new addresses even though the Jhuggi remained same but it bears different old & new numbers. Furthermore, DDA had conducted survey in different stages spread to long interval and number plates giving the "Names of the owner & Number of the Jhuggis" were affixed. Different survey numbers were given by DDA and video clippings were also prepared. In view of the matter the dwellers cannot be penalized because their Jhuggis bore different numbers at different time.

21. The bare perusal of the Survey records as well as the Note of EDC dated 08.08.2022 (Annexure-X) and the Rejection Order dated 01.07.2023 shows that DDA has no where disputed about the existence of Jhuggi of the Appellant/Claimant but her claim was rejected on the sole grounds that that her Voter ID Card could not be verified and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. However, it has been rightly pointed out that in the survey records as well as in the Note of EDC dated 08.08.2022 (Annexure-X) the documents tendered by the Appellant/Claimant and the photographs taken at the time of survey have been annexed with the survey records wherein the address of the Appellant/Claimant is mentioned to be Jhuggi No. C-16 and N-207/153, Jailorwala Bagh, Ashok Vihar. Moreover, the Documents tendered by the Appellant/Claimant along with her representation made to DDA as well as photographs of the documents taken by the survey team of DDA clearly shows that there is no such confusion with regard to the number of the Jhuggi regarding which the Appellant/Claimant has sought allotment from DDA was bearing Jhuggi No. C-16 (N-207/153).

22. The statement of the Appellant/Claimant has been fully corroborated by the video clips tendered by DDA and it shows that the double storey Jhuggi of the Appellant/Claimant regarding which she has claimed allotment from DDA was previously bearing number N-207/153 but subsequently the number was changed to C-16 and accordingly in some documents the address is recorded to be Jhuggi No. N-207/153 whereas in other documents the address is recorded to be Jhuggi No. C-16 and in some of the documents as

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Jhuggi No. C-16 (N-207/153) but all these numbers pertain to the one and the same double storey Jhuggi of the Appellant/Claimant bearing Jhuggi No. C-16 (N-207/153) regarding which she has claimed allotment from DDA. The Appellant/Claimant had tendered her documents with the representation made by her to DDA thereby annexing documents issued on the address of Jhuggi No. C-16. Furthermore, the survey team of DDA had also taken the photographs of these documents thereby showing that these documents have been issued on the address of Jhuggi No. C-16 and N-207/153 thereby corroborating the stand taken by the Appellant/Claimant that her Jhuggi was bearing Jhuggi No.C-16. As already pointed out above DDA has furnished one video clip pertaining to the Jhuggi No. C-16 (N-207/153), which was prepared by the survey team of DDA in which from outside the said Jhuggi is clearly seen to be a double storey structure and further the Appellant/Claimant Sushila W/o Parsadi along with her nephew Dharminder S/o Chottan is seen and getting the survey conducted and further she is also heard thereby making a statement that the double storey Jhuggi belongs to her and further, she is also seen holding a slate in her hand on which **"C-16 SUSHILA G+1"** is clearly seen to have been written. This shows that the Appellant/Claimant has sought allotment from DDA against the double storey Jhuggi No. C-16 (N-207/153). This clearly supports the stand taken by the Appellant/Claimant that previously her Jhuggi was bearing number N-207/153 but subsequently the number was changed to C-16 and accordingly in some documents the address is recorded to be Jhuggi No. N-207/153 whereas in other documents the address is recorded to be Jhuggi No. C-16 and in some documents as Jhuggi No. C-16 (N-207/153) and that is why in the video clip made by the survey team of DDA **"C-16 SUSHILA G+1"** was written and accordingly there is no such confusion with regard to the number of the Jhuggi regarding which the Appellant/Claimant has sought allotment from DDA was bearing Jhuggi No. C-16 (N-207/153). Thus the surveys records along with the video clip placed on file corroborates the statement of the Appellant/Claimant that her family is having double storey Jhuggi No. C-16 (N-207/153) in Jailorwala Bagh, Ashok Vihar. Further, the material placed on file also shows that in the double storey Jhuggi No. C-16 (N-207/153) the Appellant/Claimant along with her family is living separately & independently and regarding that the Appellant/Claimant has sought allotment from DDA but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 239 of 2024 before the Appellate Authority for redressal.

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23. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the double storey Jhuggi No. C-16 (N-207/153). Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. C-16 (N-207/153) was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the same for residential purposes.

24. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-16 (N-207/153) was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

25. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the double storey Jhuggi No. C-16 as per the policy guidelines issued by DDA.

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

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's

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2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.

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

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

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

28. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

29. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

30. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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FIRST FLOOR - REQUIREMNET OF DOCUMENTS

31. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

33. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

34. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for

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the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

35. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

37. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document

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issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

38. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

39. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and

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realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

40. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

41. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

42. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's

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case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

45. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case

(supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

47. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

48. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before

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the cutoff date of 01.01.2015.

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

50. It is pointed out that we have already held that the double storey Jhuggi No. C-16 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

51. It is also pointed out that we have already held that the survey records placed on file shows that the Jhuggi No. C-16 of the Appellant/ Claimant was found to exist but her claim was rejected by EDC on 08.08.2022 on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified 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. Further, it has also been pointed out that the bare perusal of the EDC Note dated 08.08.2022 (Annexure-X) also shows that it is no where disputed by DDA as far as the existence of the Jhuggi No. C-16 of the Appellant/ Claimant and the Appellant/ Claimant along with her family living there separately & independently and using it for residential purposes is concerned but her claim was rejected on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified 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. The fact as to whether the Appellant/ Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further whether her name also appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey shall now be discussed in detail herein below by us.

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

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01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the double storey Jhuggi No. C-16 as per the policy guidelines issued by DDA.

53. The Appellant/Claimant has tendered her three Voter ID Cards (Annexure-A to Annexure-C), PAN Card (Annexure-D), Aadhar Card (Annexure-E), Letter No. F.No.AERO/AC-17/2023/90 dated 20.05.2023 (Annexure-L) issued by AERO, AC-17, Wazirpur, Voter List of the year 2007 (Annexure-M), Voter List of the year 2008 (Annexure-N), Voter List of the year 2009 (Annexure-O), Voter List of the year 2010 (Annexure-P), Voter List of the year 2011 (Annexure-Q), Voter List of the year 2012 (Annexure-R), Voter List of the year 2013 (Annexure-S), Voter List of the year 2014 (Annexure-T) as well as Letter No. F. No. AERO/AC-17/2024/205 dated 26.06.2024 (Annexure-U) issued by AERO, AC-17, Wazirpur, Voter List of the year 2023 (Annexure-V) and Voter List of the year 2024 (Annexure-W) in support of her claim.

54. It is pointed out that the Appellant/Claimant has tendered her three Voter ID Cards (Annexure-A to Annexure-C). The first Voter ID Card is bearing no. JPF 0683821 (Annexure-A) and it has been issued on 09.06.2002, much prior to the cutoff date of 01.01.2015. Furthermore, her Aadhar Card (Annexure-E) is bearing No. 3958 3481 2321 and it has been issued on 23.09.2011, much prior to the cutoff date of 01.01.2015. Further, the Letter No. F. No. AERO/AC-17/2023/90 dated 20.05.2023 (Annexure-L) issued by AERO, AC-17, Wazirpur shows that the Voter ID Card No. JPF 0683821 of the Appellant/Claimant is a valid document as per the records of the Election Commission and further this Voter ID Card has been duly reflected in the Voter Lists of the year 2007 to 2014.

55. It is pointed out that the name of the Appellant/Claimant appears at Sl. No. 781 in the Voter List of the year 2007 (Annexure-M), at Sl. No. 487 in the Voter List of the year 2008 (Annexure-N), at Sl. No. 528 in the Voter List of the year 2009 (Annexure-O), at Sl. No. 553 in the Voter List of the year 2010 (Annexure-P), at Sl. No. 559 in the Voter List of the year 2011 (Annexure-Q), at Sl. No. 499 in the Voter List of the year 2012 (Annexure-R), at Sl. No. 499 in the Voter List of the year 2013 (Annexure-S) and at Sl. No. 420 in the Voter List of the year 2014 (Annexure-T). Furthermore, in all the Voter Lists (Annexure-M to Annexure-T), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be JPF 0683821 and furthermore, in all the documents, Annexure-A, Annexure-E and Annexure-M to Annexure-T), the address of the Appellant/Claimant is mentioned to be Jhuggi No. C-16, regarding which she is claiming allotment from DDA.

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56. As already pointed out above it is mentioned in the Not of EDC dated 08.08.2022 (Annexure-X) that the Voter ID Card No. JPF 0683821 of the Appellant/Claimant is not a valid document. But as per our discussion above the material placed on file shows that the JPF 0683821 dated 09.06.2002 (Annexure-A) of the Appellant/Claimant is a valid document as per the records of the Election Commission and it is also mentioned in the Voter Lists of the years from the years 2007 to 2014 (Annexure-M to Annexure-T) as mentioned in the Letter No. F. No. AERO/AC-17/2023/90 dated 20.05.2023 (Annexure-L) issued by AERO, AC-17, Wazirpur. Accordingly, the findings of EDC is not sustainable in the eyes of law.

57. It is also pointed out that the Voter ID Cards (Annexure-B & Annexure-C) of the Appellant/Claimant are bearing the same number i.e. WHC 3610946. The first Voter ID Card (Annexure-B) has been issued on 01.11.2019 whereas the second Voter ID Card (Annexure-C) has been issued on 05.03.2022 and both of them have been issued on the address of the Jhuggi No. C-16, regarding which she is claiming allotment from DDA.

58. It is pointed out that the Appellant/Claimant has specifically explained the reasons for having got the Voter ID Cards bearing No. WHC 3610946 (Annexure-B & Annexure-C) issued when she was already having a Voter ID Card No. JPF 0683821 (Annexure-A). The Appellant/Claimant has stated that she is a widow as her husband had died on 10.12.1991 and they are not having any issues. The Appellant/Claimant has remained socially and politically active initially for some period in her younger age but she became physically incapacitated as she is not keeping good health due to old age and she has kept her nephew Dharminder with her in order to look after her. Accordingly, the Voter ID Card No. JPF 0683821 (Annexure-A) was cancelled by the Election Commission due to non-use and this compelled the Appellant/Claimant to get the fresh Voter Card (Annexure-B) bearing No. WHC 3610946 issued on 01.11.2019, much after the cutoff date of 01.01.2015. Further, this Voter ID Card (Annexure-B) was lost and accordingly, she got a duplicate Voter ID Card (Annexure-C) issued on 05.03.2022 which was bearing the same number i.e. WHC 3610946.

59. It is also pertinent to point out that the Letter No. F.No.AERO/AC-17/2024/205 dated 26.06.2024 (Annexure-U) issued by AERO, AC-17, Wazirpur verifies that the Voter ID Card No. WHC 3610946 (Annexure-B & Annexure-C) are valid documents as per the records of the Election Commission and further this Voter ID Card is reflected in the Voter Lists of the year 2023 & Voter List of the year 2024.

60. Furthermore, it is also pointed out that the name of the Appellant/Claimant appears at Sl.

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No. 724 in the Voter List of the year 2023 (Annexure-V) and at Sl. No. 774 in the Voter List of the year 2024 (Annexure-W). It is pointed out that in both the Voter Lists (Annexure-V & Annexure-W), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be WHC 3610946 and furthermore, in all the documents, Annexure-B, Annexure-C, Annexure-V & Annexure-W), the address of the Appellant/Claimant is mentioned to be Jhuggi No. C-16, Jailorwala Bagh regarding which she is claiming allotment from DDA.

61. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the Appellant/Claimant has tendered documents, Annexure-A to Annexure-Y, in support of her claim. Her first Voter ID Card No. JPF 0683821 dated 09.06.2002 (Annexure-A) has been issued on the address of the Jhuggi No. C-16, Jailorwala Bagh regarding which she has been claiming allotment from DDA. The Second Voter ID Card dated 01.11.2019 (Annexure-B) & third Voter ID Card dated 05.03.2022 (Annexure-C) of the Appellant/Claimant are bearing the same number i.e. WHC 3610946 and both have been issued on the same address i.e. Jhuggi No. C-16, Jailorwala Bagh. The Aadhar Card No. 3958 3481 2321 dated 23.09.2011 (Annexure-E) of the Appellant/Claimant has been issued on the address of Jhuggi No. C-16, Jailorwala Bagh. Furthermore, the Letter No. F. No. AERO/AC-17/2023/90 dated 20.05.2023 (Annexure-L) issued by AERO, AC-17, Wazirpur also verifies the correctness & genuineness of the Voter ID Card No. JPF 0683821 of the Appellant/Claimant to be valid document as per the records of the Election Commission and further this Voter ID Card has been duly reflected in the Voter Lists of the year 2007 to 2014. Further, the name of the Appellant/Claimant appears at Sl. No. 781 in the Voter List of the year 2007 (Annexure-M), at Sl. No. 487 in the Voter List of the year 2008 (Annexure-N), at Sl. No. 528 in the Voter List of the year 2009 (Annexure-O), at Sl. No. 553 in the Voter List of the year 2010 (Annexure-P), at Sl. No. 559 in the Voter List of the year 2011 (Annexure-Q), at Sl. No. 499 in the Voter List of the year 2012 (Annexure-R), at Sl. No. 499 in the Voter List of the year 2013 (Annexure-S) and at Sl. No. 420 in the Voter List of the year 2014 (Annexure-T). Furthermore, in all the Voter Lists (Annexure-M to Annexure-T), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be JPF 0683821 and furthermore, in all the documents, Annexure-A, Annexure-E and Annexure-M to Annexure-T), the address of the Appellant/Claimant is mentioned to be Jhuggi No. C-16. Moreover, another Letter No. F.No.AERO/AC-17/2024/205 dated 26.06.2024 (Annexure-U) issued by AERO, AC-17, Wazirpur verifies that the Voter ID Card No. WHC 3610946 (Annexure-B & Annexure-C) are valid documents as per the records of the Election

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the Election Commission and further this Voter ID Card is reflected in the Voter Lists of the year 2023 & Voter List of the year 2024. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 724 in the Voter List of the year 2023 (Annexure-V) and at Sl. No. 774 in the Voter List of the year 2024 (Annexure-W). In both the Voter Lists (Annexure-V & Annexure-W), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be WHC 3610946 and furthermore, in all the documents, Annexure-B, Annexure-C, Annexure-V & Annexure-W), the address of the Appellant/Claimant is mentioned to be Jhuggi No. C-16.

62. A per our discussion above, the material placed on file shows that previously the Jhuggi of the Appellant/Claimant was bearing Jhuggi No. N-207/153 but subsequently the number was changed to C-16 and in the records of DDA it is shown bearing No. C-16, Jailorwala Bagh, Ashok Vihar and that is why in the Survey records of DDA as well as in the Rejection Order dated 01.07.2023 the address of the Appellant/Claimant is mentioned to be bearing Jhuggi C-16. It is pointed out that the survey records placed on file shows that the Appellant/Claimant has sought allotment form DDA against the Jhuggi No. C-16 and in some of the documents, the number of her Jhuggi is mentioned to be N-207/153 and in some of the documents the number of her Jhuggi is mentioned to be C-16 and in other documents it is mentioned to be C-16/N-207/153 and in the records of DDA it is shown to be bearing No. C-16, Jailorwala Bagh, Ashok Vihar but all these documents pertains to the double storey Jhuggi No. C-16 of the Appellant/Claimant regarding which she is claiming allotment from DDA because as already pointed out DDA has not disputed about the existence of the Jhuggi of the Appellant/Claimant bearing Jhuggi No. C-16, Jailorwala Bagh, Ashok Vihar but her claim was rejected on the grounds that she was not having requisite documents on the cutoff date of 01.01.2015.

63. It is pointed out that the first Voter ID Card No. JPF 0683821 dated 09.06.2002 (Annexure-A) and her Aadhar Card No. 3958 3481 2321 dated 23.09.2011 (Annexure-E) have been issued much prior to the cutoff date of 01.01.2015. Further, the Letter No. F. No. AERO/AC-17/2023/90 dated 20.05.2023 (Annexure-L) issued by AERO, AC-17, Wazirpur shows that the Voter ID Card No. JPF 0683821 (Annexure-A) of the Appellant/Claimant is a valid document as per the records of the Election Commission and further this Voter ID Card has been duly reflected in the Voter Lists of the year 2007 to 2014. It is pointed out that the name of the Appellant/Claimant appears at Sl. No. 781 in the Voter List of the year 2007

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(Annexure-M), at Sl. No. 487 in the Voter List of the year 2008 (Annexure-N), at Sl. No. 528 in the Voter List of the year 2009 (Annexure-O), at Sl. No. 553 in the Voter List of the year 2010 (Annexure-P), at Sl. No. 559 in the Voter List of the year 2011 (Annexure-Q), at Sl. No. 499 in the Voter List of the year 2012 (Annexure-R), at Sl. No. 499 in the Voter List of the year 2013 (Annexure-S) and at Sl. No. 420 in the Voter List of the year 2014 (Annexure-T). Furthermore, in all the Voter Lists (Annexure-M to Annexure-T), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be JPF 0683821 and furthermore, in all the documents, Annexure-A, Annexure-B and Annexure-M to Annexure-T), the address of the Appellant/Claimant is mentioned to be Jhuggi No. C-16, regarding which she is claiming allotment from DDA. It is also pointed out that both the Voter ID Cards (Annexure-B & Annexure-C) of the Appellant/Claimant are bearing the same number i.e. WHC 3610946 and the first Voter ID Card (Annexure-B) has been issued on 01.11.2019 whereas the second Voter ID Card (Annexure-C) has been issued on 05.03.2022 and both of them have been issued on the address of the Jhuggi No. C-16, regarding which she is claiming allotment from DDA. Furthermore, the Letter No. F.No.AERO/AC-17/2024/205 dated 26.06.2024 (Annexure-U) issued by AERO, AC-17, Wazirpur verifies that both the Voter ID Cards No. WHC 3610946 (Annexure-B & Annexure-C) are valid documents as per the records of the Election Commission and further this Voter ID Card is reflected in the Voter Lists of the year 2023 & Voter List of the year 2024. Furthermore, it is also pointed out that the name of the Appellant/Claimant appears at Sl. No. 724 in the Voter List of the year 2023 (Annexure-V) and at Sl. No. 774 in the Voter List of the year 2024 (Annexure-W). It is pointed out that in both the Voter Lists (Annexure-V & Annexure-W), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be WHC 3610946 and furthermore, in all the documents, Annexure-B, Annexure-C, Annexure-V & Annexure-W), the address of the Appellant/Claimant is mentioned to be Jhuggi No. C-16, Jailorwala Bagh regarding which she is claiming allotment from DDA. The material placed on file accordingly corroborates that the Appellant/Claimant was having a valid Voter ID Card & a Aadhar Card on the cutoff date of 01.01.2015 and further her name also continuously appears in the Voter List of the years from 2007 to 2014 and from 2022 to 2023.

64. It is also pertinent to point out that the DUSIB policy has been adopted by DDA. The legal question as to whether the claim of JJ dweller is liable to be rejected solely because her name does not appear in Electoral Rolls of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey even though she was having a valid Voter ID Card

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on the cutoff date of 01.01.2015 and also in spite of the fact that she also possess other documents to corroborate her residence and existence in the concerned Jhuggi Jhopri basti was the matter directly involved in the matter before Hon'ble High Court of Delhi relating to the DUSIB policy, which had been adopted by DDA, and it has been dealt in the judgment of **Udal v. Delhi Urban Shelter Improvement Board and Ors[2] 2017 SCC OnLine Del 9715.**

65. It is pointed out that in Udal's case (supra) the Hon'ble High Court of Delhi has found that the petitioners have produced the documents, including the National Food Security Card, Ration Card, Gas/Oil Bill, Electricity Bill, BSES Meter Change Report, School Leaving Certificates, School Progress Report of Children, Report Card of Children, Aadhar Cards, Driving Licences, Passbooks, PAN Card, Death Certificate of the Spouse of one of the parties, LIC Policy but they could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy. The Hon'ble High court held as under: -

> *"33. .....Therefore, even though these petitioners could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy, however, if an holistic view is undertaken of the documentation as produced, it would amply establish the residence and existence of these persons at the Rajiv Camp for the periods from 1998 till 2016."*
>
> *"38. Mr. Parvinder Chauhan, ld. Standing Counsel for respondent no.1 has staunchly contended that the requirement of Clause 1(iii) of Part-B of R& R Policy to the effect that the name of the person must feature in the electoral roll for any of the prescribed five years, is mandatory and the failure for the name to appear in such electoral roll must be fatal so far as consideration for allotment of alternative flat for rehabilitation under the R&R Policy is concerned. In the given facts and circumstances, we are unfortunately unable to agree with this submission. The records placed by these persons include National Food Security Cards, Ration Cards, Oil/Gas Bill, SC/ST Certificates, Electricity Bill, LIC Policies, Gas Connection Records and Bills, Driving Licences, Passbooks, Birth Certificate of Children as well as records of School Admission of Children, their Progress Report Cards, all of which show their continued existence on the spot. A realistic view has to be taken in this regard. We find that the persons who were found ineligible were in possession of public identification including Voter ID - cards. The failure of the names of such persons to*

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feature in the electoral roll could be for any number of reasons. The same could happen, if the person was not at home at the time the Booth Level Officer visited Jhuggi of the person concerned. This could be on account of the occupation of the person or for the person and adults of the family having left the Jhuggi for work. Obviously, the Booth Level Officer or any persons conducting the survey would not have met the adult members of the family. There would thus not be any adult members of the family to give the information for names to be included in the electoral rolls."

"40. We find that as per Clause 2 of PART - B of the R&R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents. In the above cases, the Jhuggi Jhopri dwellers have produced multiple records ranging to periods in the late 1990s till date. In this view of the matter, the persons detailed in paras 37 and 38 above are clearly entitled to the benefit of the policy. We are of the view that the ineligibility letter dated 22nd December, 2016 by the respondents have been issued to these persons because of a disjoint reading of Clause 1(iii) and Clause 2 of PART - B of the policy. The same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1(iii) and Clause 2 of Part-B of the R&R Policy, 2015."

66. Therefore, the present appeal is squarely covered by the facts of Udal's case (supra) decided by the Hon'ble High Court of Delhi wherein it has been held that as per Clause 2 of PART-B of the R & R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents and we cannot give a disjoint reading of Clause 1 (iii) and Clause 2 of PART – B of the policy but the same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1 (iii) and Clause 2 of PART-B of the R & R Policy, 2015.

67. On this aspect it is pertinent to point out that when the Jhuggi of the Appellant/Claimant is found to exist on the cutoff date of 01.01.2015 and she is also found to be having an Aadhar Card and also a valid Voter ID Card on the cutoff date of 01.01.2015 and also she possesses "any one" document out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 then her claim can not be rejected by taking hyper technical view especially when she was having a valid Voter ID Card dated 09.06.2002

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(Annexure-A), Voter ID Card dated 01.11.2019 (Annexure-B), Voter ID Card dated 05.03.2022 (Annexure-C) & Aadhar Card No. 3958 3481 2321 dated 23.09.2011 (Annexure-E) on the cutoff date of 01.01.2015 and further her name also appears continuously in the Voter Lists from the years 2007 to 2014 (Annexure-M to Annexure-T) and in the Voter Lists from the years 2023 to 2024 (Annexure-V to Annexure-W) and she as well his family are having documents to show that they have been living in the said Jhuggi much prior to the cutoff date of 01.01.2015.

68. There is no dispute that the Appellant/Claimant is having a valid Voter ID Card JPF 0683821 dated 09.06.2002 (Annexure-A), Voter ID Card WHC 3610946 dated 01.11.2019 (Annexure-B) & Voter ID Card WHC 3610946 dated 05.03.2022 (Annexure-C). Further, the Letter No. F. No. AERO/AC-17/2023/90 dated 20.05.2023 (Annexure-L) issued by AERO, AC-17, Wazirpur shows that the Voter ID Card No. JPF 0683821 (Annexure-A) of the Appellant/Claimant is a valid document as per the records of the Election Commission and further this Voter ID Card has been duly reflected in the Voter Lists of the year 2007 to 2014. Moreover, her Voter ID Card JPF 0683821 dated 09.06.2002 (Annexure-A) as well as her Aadhar Card No. 3958 3481 2321 dated 23.09.2011 (Annexure-E) have been issued much prior to the cutoff date of 01.01.2015. It is pointed out that the name of the Appellant/Claimant appears at Sl. No. 781 in the Voter List of the year 2007 (Annexure-M), at Sl. No. 487 in the Voter List of the year 2008 (Annexure-N), at Sl. No. 528 in the Voter List of the year 2009 (Annexure-O), at Sl. No. 553 in the Voter List of the year 2010 (Annexure-P), at Sl. No. 559 in the Voter List of the year 2011 (Annexure-Q), at Sl. No. 499 in the Voter List of the year 2012 (Annexure-R), at Sl. No. 499 in the Voter List of the year 2013 (Annexure-S) and at Sl. No. 420 in the Voter List of the year 2014 (Annexure-T). Furthermore, in all the Voter Lists (Annexure-M to Annexure-T), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be JPF 0683821 and furthermore, in all the documents (Annexure-A, Annexure-B and Annexure-M to Annexure-T), the address of the Appellant/Claimant is mentioned to be Jhuggi No. C-16, regarding which she is claiming allotment from DDA. It is also pointed out that other two Voter ID Cards (Annexure-B & Annexure-C) of the Appellant/Claimant are bearing the same number i.e. WHC 3610946 and the first Voter ID Card (Annexure-B) has been issued on 01.11.2019 whereas the second Voter ID Card (Annexure-C) has been issued on 05.03.2022 and both of them have been issued on the address of the Jhuggi No. C-16, regarding which she is claiming allotment from DDA. Furthermore, the Letter No. F.No.AERO/AC-17/2024/205 dated

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26.06.2024 (Annexure-U) issued by AERO, AC-17, Wazirpur verifies that both the Voter ID Cards No. WHC 3610946 (Annexure-B & Annexure-C) are valid documents as per the records of the Election Commission and further this Voter ID Card is reflected in the Voter Lists of the year 2023 & Voter List of the year 2024. Furthermore, it is also pointed out that the name of the Appellant/Claimant appears at Sl. No. 724 in the Voter List of the year 2023 (Annexure-V) and at Sl. No. 774 in the Voter List of the year 2024 (Annexure-W). It is pointed out that in both the Voter Lists (Annexure-V & Annexure-W), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be WHC 3610946 and furthermore, in all the documents (Annexure-B, Annexure-C, Annexure-V & Annexure-W), the address of the Appellant/Claimant is mentioned to be Jhuggi No. C-16, Jailorwala Bagh regarding which she is claiming allotment from DDA.

69. Now we shall appraise the material placed on file to determine as to whether there are documents placed on file to shows that the Appellant/Claimant along with her family was living in Jhuggi No. C-16 since long and more particularly on the cutoff date of 01.01.2015 and whether the family members of the Appellant/Claimant have got the documents issued in their favour prior to the cutoff date of 01.01.2015 to lent support to the claim put forward by the Appellant/Claimant.

70. The Appellant/Claimant has also tendered two Ration Cards (Annexure-F & Annexure-G), Electricity Bill (Annexure-H), Passbook of Bank of Baroda (Annexure-I) & Gas Connection Document (Annexure-K) in support of her claim.

71. It is pointed out that the Appellant/Claimant has tendered two Ration Cards (Annexure-F & Annexure-G). The first Ration Card is bearing No. BPL 53200140 (Annexure-F) and it has been issued in favour of the Appellant/Claimant on 04.08.2008, much prior to the cutoff date of 01.01.2015 and it has been issued on the address of the Jhuggi No. N-207/153. The second Ration Card (Annexure-G) is bearing No. 077002573326 and it has been issued in favour of the Appellant/Claimant on the address of Jhuggi No. N-207/153. Further, the Internet Report (Annexure-Y) shows that the Appellant/Claimant had applied for issuance of Ration Card on 02.12.2014 and this Ration Card bearing No. 077002573326 (Annexure-G) has been approved on 19.12.2014, much prior to the cutoff date of 01.01.2015. Further, it is pointed out that the Electricity Bill (Annexure- H) shows that the Appellant/Claimant had taken the electricity connection on the address of the Jhuggi No. C-16 (N-207/153) on 16.02.2006, much prior to the cutoff date of 01.01.2015. Further, the Passbook of Bank of

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Baroda (Annexure-I) shows that the Appellant/Claimant had opened the account on 25.03.2013, much prior to the cutoff date of 01.01.2015 and in this document her address is mentioned to be Jhuggi No. C-16, regarding which she is claiming allotment from DDA. Further, the Gas Connection Document (Annexure-K) shows that the Appellant/Claimant had taken the gas connection No. 59576535 on 15.05.2013, much prior to the cutoff date of 01.01.2015 on the address of the Jhuggi No. N-207/153. It has already been pointed out that initially the Jhuggi of the Appellant/Claimant was bearing Jhuggi No. N-207/153 but later on it was changed to Jhuggi No. C-16 and in the records of DDA it is shown bearing No. C-16, Jailorwala Bagh, Ashok Vihar.

72. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the Appellant/Claimant has tendered two Ration Cards (Annexure-F & Annexure-G). The first Ration Card is bearing No. BPL 53200140 (Annexure-F) and it has been issued in favour of the Appellant/Claimant on 04.08.2008 on the address of the Jhuggi No. N-207/153. The second Ration Card (Annexure-G) is bearing No. 077002573326 and it has been issued in favour of the Appellant/Claimant on the address of Jhuggi No. N-207/153. Further, the Internet Report (Annexure-Y) shows that the Appellant/Claimant had applied for issuance of Ration Card on 02.12.2014 and this Ration Card bearing No. 077002573326 (Annexure-G) has been approved on 19.12.2014. Further, the Electricity Bill (Annexure- H) shows that the Appellant/Claimant had taken the electricity connection on the address of the Jhuggi No. C-16 (N-207/153) on 16.02.2006 and the Passbook of Bank of Baroda (Annexure-I) shows that the Appellant/Claimant had opened the account on 25.03.2013 on the address of Jhuggi No. C-16. Further, the Gas Connection Document (Annexure-K) shows that the Appellant/Claimant had taken the gas connection No. 59576535 on 15.05.2013, on the address of the Jhuggi No. N-207/153.

73. The Appellant/Claimant has tendered Voter ID Cards & Aadhar Cards belonging to her, Electoral Rolls, Bank Passbook of Bank of Baroda, Electricity Bill and Ration Cards etc. and all these documents have been issued from 2002 to 2022 and it accordingly amply establishes that she as well as her family members have been living in the double storey Jhuggi No. C-16, Jailorwala Bagh, Ashok Vihar, since long and more particularly on the cutoff date of 01.01.2015 and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

74. As already pointed out, DDA has furnished the survey records along with video clip

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pertaining to the Jhuggi No. C-16 and in that video clip the Jhuggi No. C-16 is clearly seen to be a double storey structure from outside and further the room & kitchen Jhuggi of the Appellant/ Claimant is clearly seen. The Jhuggi of the Appellant/ Claimant was also found to exist by the survey team as reflected in the EDC Note dated 08.08.2022 (Annexure-X). It is pertinent to point out that DDA has not disputed about the existence of Jhuggi No. C-16 of the Appellant/Claimant but her claim was rejected wrongly by the EDC on the grounds that her Voter ID Card could not be verified and her name does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey inspite of the fact that as per our discussion above it has been found by us that the Appellant/Claimant was having a Voter ID Card & Aadhar Card on the cutoff date of 01.01.2015 and further her name also appears continuously in the voter list of the year's 2007 to 2014 and 2023 & 2024 and further she was having second document out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 but it was wrongly ignored by EDC.

75. The material placed on file shows that the Appellant/ Claimant was living separately & independently in the double storey Jhuggi No. C-16 and further as per our discussion above, the documents, Annexure-A to Annexure-Y, shows that the Appellant/Claimant is having a valid Voter ID Card JPF 0683821 dated 09.06.2002 (Annexure-A), Voter ID Card WHC 3610946 dated 01.11.2019 (Annexure-B) & Voter ID Card WHC 3610946 dated 05.03.2022 (Annexure-C). Further, the Letter No. F. No. AERO/AC-17/2023/90 dated 20.05.2023 (Annexure-L) issued by AERO, AC-17, Wazirpur shows that the Voter ID Card No. JPF 0683821 (Annexure-A) of the Appellant/Claimant is a valid document as per the records of the Election Commission and further this Voter ID Card has been duly reflected in the Voter Lists of the year 2007 to 2014 (Annexure-M to Annexure-T). Furthermore, the Letter No. F.No.AERO/AC-17/2024/205 dated 26.06.2024 (Annexure-U) issued by AERO, AC-17, Wazirpur verifies that both the Voter ID Cards No. WHC 3610946 (Annexure-B & Annexure-C) are valid documents as per the records of the Election Commission and further this Voter ID Card is reflected in the Voter Lists of the year 2023 (Annexure-V) & Voter List of the year 2024 (Annexure-W). Moreover, her Voter ID Card JPF 0683821 dated 09.06.2002 (Annexure-A) as well as her Aadhar Card No. 3958 3481 2321 dated 23.09.2011 (Annexure-E) have been issued much prior to the cutoff date of 01.01.2015. It is pointed out that the name of the Appellant/Claimant appears at Sl. No. 781 in the Voter List of the year 2007 (Annexure-M), at Sl. No. 487 in the Voter List of the year 2008 (Annexure-N), at Sl. No. 528

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in the Voter List of the year 2009 (Annexure-O), at Sl. No. 553 in the Voter List of the year 2010 (Annexure-P), at Sl. No. 559 in the Voter List of the year 2011 (Annexure-Q), at Sl. No. 499 in the Voter List of the year 2012 (Annexure-R), at Sl. No. 499 in the Voter List of the year 2013 (Annexure-S) and at Sl. No. 420 in the Voter List of the year 2014 (Annexure-T) and in all the Voter Lists (Annexure-M to Annexure-T), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be JPF 0683821 and furthermore, in all the documents (Annexure-A, Annexure-E and Annexure-M to Annexure-T), the address of the Appellant/Claimant is mentioned to be Jhuggi No. C-16, regarding which she is claiming allotment from DDA. It is also pointed out that other two Voter ID Cards (Annexure-B & Annexure-C) of the Appellant/Claimant are bearing the same number i.e. WHC 3610946 and the first Voter ID Card (Annexure-B) has been issued on 01.11.2019 whereas the second Voter ID Card (Annexure-C) has been issued on 05.03.2022 and both of them have been issued on the address of the Jhuggi No. C-16, regarding which she is claiming allotment from DDA. Furthermore, it is also pointed out that the name of the Appellant/Claimant appears at Sl. No. 724 in the Voter List of the year 2023 (Annexure-V) and at Sl. No. 774 in the Voter List of the year 2024 (Annexure-W) and in both the Voter Lists (Annexure-V & Annexure-W), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be WHC 3610946 and furthermore, in all the documents (Annexure-B, Annexure-C, Annexure-V & Annexure-W), the address of the Appellant/Claimant is mentioned to be Jhuggi No. C-16, Jailorwala Bagh regarding which she is claiming allotment from DDA. The material placed on file also shows that the first Ration Card is bearing No. BPL 53200140 (Annexure-F) and it has been issued in favour of the Appellant/Claimant on 04.08.2008, much prior to the cutoff date of 01.01.2015 and it has been issued on the address of the Jhuggi No. N-207/153. The second Ration Card (Annexure-G) is bearing No. 077002573326 and it has been issued in favour of the Appellant/Claimant on the address of Jhuggi No. N-207/153 and the Internet Report (Annexure-Y) shows that the Appellant/Claimant had applied for issuance of Ration Card on 02.12.2014 and this Ration Card bearing No. 077002573326 (Annexure-G) has been approved on 19.12.2014, much prior to the cutoff date of 01.01.2015. Furthermore, the Electricity Bill (Annexure- H) shows that the Appellant/Claimant had taken the electricity connection on the address of the Jhuggi No. C-16 (N-207/153) on 16.02.2006, much prior to the cutoff date of 01.01.2015 and it is covered as one of the documents in the list of the 12 documents as enlisted in Clause 2 of the DDA policy, 2015. Moreover, the Passbook of

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Bank of Baroda (Annexure-I) shows that the Appellant/Claimant had opened the account on 25.03.2013, much prior to the cutoff date of 01.01.2015 and in this document her address is mentioned to be Jhuggi No. C-16, regarding which she is claiming allotment from DDA. Further, the Gas Connection Document (Annexure-K) shows that the Appellant/Claimant had taken the gas connection No. 59576535 on 15.05.2013, much prior to the cutoff date of 01.01.2015 on the address of the Jhuggi No. N-207/153. It has already been pointed out that initially the Jhuggi of the Appellant/Claimant was bearing Jhuggi No. N-207/153 but later on it was changed to Jhuggi No. C-16 and in the records of DDA it is shown bearing No. C-16, Jailorwala Bagh, Ashok Vihar. In the light of our detailed discussion, we have no hesitation in holding that the Appellant/ Claimant was having all the requisite documents and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

76. 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 policy guidelines issued by DDA. But the Eligibility Determination Committee has wrongly and illegally rejected her claim. Hence the present appeal No. 239 of 2024 stands allowed, hereby, setting aside the impugned order communicated vide order bearing No. 350-74/33.G dated 01.07.2023 issued by the Nodal Officer. DDA is hereby directed to make allotment in favour of Appellant/ Claimant, Sushila W/o Parsadi, in respect of the double storey Jhuggi No. C-16, Jailorwala Bagh, Ashok Vihar.

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

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

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

Appeal No: 241 of 2024

Date of Institution: 28.07.2023

Date of Order: 31.07.2024

Present: Appellant/ Claimant Shri Kishan S/o Shankal Lal

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. I-5, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. I-5 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has

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rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No.350-10/112.1 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 241 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam Meena, Dy. Director.

4. The statement.of the Appellant/Claimant has been recorded before us on 17.05.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-P, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. I-5 was found to exist on the second floor but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the second floor of the Jhuggi No. I-5 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Shri Kishan has been recorded before us on 17.05.2024, wherein he has stated that his parents, Shankar Lal & Munni Devi, are having three sons, Chhabi Nath, Shri Kishan & Vikas and two daughters, Vineeta & Sangeeta. All the

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children are married. Vineeta is married with Chandrabhan and she is living on rent in her matrimonial home in Jailorwala Bagh, Ashok Vihar. Sangeeta is married with Satyendra and she is living in her matrimonial home in Bareli, Uttar Pradesh. Vikas is married with Manju and having one son Yuvansh. Chhabi Nath is married with Poonam and having four children, Astha, Upasna, Dev & Prateek. Shri Kishan (Appellant/Claimant) is married with Suman and having two children, Kavyansh & Kritika.

9. The Appellant/Claimant has stated that Gulab Singh S/o Kallu also belongs to Bareily, Uttar Pradesh and he was having a double storey Jhuggi No. I-5, Jailorwala Bagh, Ashok Vihar. Gulab Singh S/o Kallu had sold the first floor of the said Jhuggi No. I-5 to Shankar Lal in the year 2005 for Rs. 18,000/-. After purchasing the first floor, Shankar Lal also raised construction on the second floor of the said Jhuggi No. I-5. Accordingly, the Jhuggi No. I-5, which was previously a double storey structure was converted into a triple storey structure and it is having one room on the ground floor and two rooms on the first floor and one room on the second floor and an iron ladder is placed outside in the gali and it is used for going from the ground floor to the first floor and then to the second floor.

GROUND FLOOR OF JHUGGI NO. 1-5

10. The Appellant/Claimant has stated that Gulab Singh along with his wife Anjali and children is living on the ground floor of the said triple Jhuggi No. I-5 and regarding that DDA has made allotment in favour of Anjali W/o Gulab Singh. These facts are not disputed by DDA.

FIRST JHUGGI ON THE FIRST FLOOR OF THE JHUGGI No. I-5

11. The Appellant/Claimant has stated that his parents, Shankar Lal & Munni Devi, are living in the first room on the first floor of the said triple storey Jhuggi No. I-5, which was a separate dwelling unit and regarding that his mother Munni Devi has sought allotment from DDA but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the Appeal No. 244 of 2024 before the Appellate Authority for redressal. These facts are not disputed by DDA.

SECOND JHUGGI ON THE FIRST FLOOR OF THE JHUGGI No. I-5

12. The Appellant/Claimant has stated that Chhabi Nath along with his wife Poonam and all the four children, Astha, Upasna, Dev & Prateek, is living in the second room on the first floor of the said triple storey Jhuggi No. I-5, which is a separate dwelling unit and regarding that he has sought allotment from DDA but his claim has been rejected by the Eligibility

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Determination Committee and aggrieved by the same he has filed the Appeal No. 243 of 2024 before the Appellate Authority for redressal. These facts are not disputed by DDA.

SECOND FLOOR OF JHUGGI NO. 1-5

13. The Appellant/Claimant has stated that he along with his wife Suman and both the children Kavyansh & Kritika, is living on the second floor of the said triple storey Jhuggi No. I-5 and regarding that he has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee on the ground that he has been found to have claimed allotment against the upper floor in spite of the fact that he has admittedly sought allotment against the second floor of the said triple storey Jhuggi No. I-5 and further he is having all the requisite documents as per the policy guidelines issued by DDA and accordingly aggrieved by the same he has filed the Appeal No. 243 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-S, in support of his claim and prayed that DDA be directed to make allotment in his favour.

14. It is pointed out that all the three Appeals bearing Appeal No. 241 of 2024, Appeal No. 243 of 2024 and Appeal No. 244 of 2024 shall be decided separately on their individual merits.

15. DDA has furnished survey records along with four video clips of Jhuggi No. I-5. As per survey records the survey was got conducted on 01.10.2020 by the Appellant/Claimant & his wife of Jhuggi No. I-5 and their photographs are also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography Suman, who is the wife of the Appellant/Claimant, was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

16. DDA has furnished the survey records along with four video clips of Jhuggi No. I-5. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 17.05.2024 wherein the Appellant/Claimant has stated that the first video clip pertains to the Jhuggi No. I-5 in which multi storey pucca structure is seen and one Meera, who is neighbor of Gulab Singh & Anjali is seen and getting the survey conducted on the behalf of Anjali w/o Gulab Singh and she is also heard stating that her name is Meera and Anjali had gone out to take medicine and further, the room & kitchen on the ground floor is seen and

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further, the said Meera is also seen holding a slate in her hand on which " **I-5 ANJALI GF**" is seen to have been written. The second video clip pertains to the first room on the first floor of the Jhuggi No. I-5 in which Poonam W/o Chhabi Nath is seen & getting the survey conducted on behalf of her husband Chhabi Nath and further, their room & kitchen are seen on the first floor and she is also seen holding a slate in her hand on which **"I-5 CHHABINATH FF"** is seen to have been written. The third video clip pertains to the second room on the first floor of the said Jhuggi No. I-5 of Munni Devi in which her husband Shankar Lal is seen along with Suman W/o Shri Kishan and getting the survey conducted and further, the room & kitchen of the Appellant/Claimant Munni Devi on the first floor is seen and Shankar Lal is also seen holding a slate in his hand on which **"I-5 MUNNI DEVI FF"** is seen to have been written. The fourth video clip pertains to the room on the second floor of the Jhuggi No. I-5 of Shri Kishan in which Suman W/o Shri Kishan is seen and getting the survey conducted on the second floor and their room & kitchen are also seen and further, she is also seen holding a slate in her hand on which **"I-5 SHRI KISHAN IInd .F"** is seen to have been written.

17. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case about the existence of the triple storey Jhuggi No. I-5. The statement of the Appellant/Claimant is duly corroborated by the survey records tendered by DDA as well as the video clips prepared by the survey team and placed on file by DDA and it shows that Jhuggi No. I-5 is a triple storey pucca structure and it comprises of one room on the ground floor and two rooms on the first floor and one room on the second floor and further, Anjali W/o Gulab Singh S/o Kallu is living on the ground floor of the Jhuggi No. I-5 whereas Munni Devi W/o Shankar Lal (Appellant/Claimant of Appeal No. 244 of 2024) is living in the first room on the first floor of the Jhuggi No. I-5 and Chhabi Nath S/o Shankar Lal (Appellant/Claimant of Appeal No. 243 of 2024) is living in the second room on the first floor of the Jhuggi No. I-5 and further Shri Kishan S/o Shankar Lal (Appellant/Claimant of Appeal No. 241 of 2024) is living on the second floor of the Jhuggi No. I-5. Furthermore, the Appellant/Claimant along with his family is using his Jhuggi on the second floor of the said Jhuggi No. I-5 for residential purposes.

18. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. I-5 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still living on the second floor of the said double storey Jhuggi No. I-5 and using the same for residential purposes and further the

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Appellant/Claimant has claimed alternative allotment from DDA against the second floor of the said double storey Jhuggi.

19. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the second floor of the said triple storey Jhuggi No. I-5 as per the policy guidelines issued by DDA.

20. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-P, in support of his claim and prayed that DDA be directed to make allotment against the second floor of the said triple storey Jhuggi No. I-5 in his favour.

21. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she has claimed allotment against the second floor, which is not included in the definition of upper floor and further she was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No.350-10/112.1 dated 01.07.2023.

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

> **"Part-B**
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**
>
> 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."

23. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

24. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

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25. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

26. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

28. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

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dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

30. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

32. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

33. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

34. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delni's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a

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ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

35. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

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

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and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

37. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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40. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

42. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

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

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

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

45. It is pointed out that we have already held that the triple storey Jhuggi No. I-5 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the second floor of the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the second floor of the said triple storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the upper floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

46. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the second floor of the said triple storey Jhuggi No. I-5 as per the policy guidelines issued by DDA.

47. Now we shall appraise the legal position as to whether the term "Upper Floor" used in DDA policy means only the first floor or it connotes all the floors including second & third floor also.

48. 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

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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.

49. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment and there is no doubt instead of using the word "First Floor" the word "Upper Floor" has been used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further expanded to include the dweller living on the second & third floors. Furthermore, the words "Upper Floor" cannot be interpreted to be used in plural as "Upper Floors" by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -

> *"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.*

50. The bare perusal of Part–B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions mentioned in the DDA policy. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

51. 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

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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).

52. 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.

53. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the second floor of the said triple storey Jhuggi No. I-5 as per the policy guidelines issued by DDA.

54. The Appellant/Claimant has tendered his Voter ID Card No. WHC 1907962 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Letter dated 01.05.2024 (Annexure-N), of AERO, AC-17, Wazirpur, Voter List of the year 2014 (Annexure-O) and Voter List of the year 2015 (Annexure-P) in support of his claim.

55. It is pointed out that the Voter ID Card No. WHC 1907962 (Annexure-A) of the Appellant/Claimant has been issued on 25.03.2013, much prior to the cutoff date 01.01.2015. Furthermore, the Appellant/Claimant has tendered his Aadhar Card No. 5843 3359 2916 (Annexure-B) and it has been issued on 18.09.2011, much prior to the cutoff date 01.01.2015. The Letter F. No./AERO/AC-17/2024/172 dated 01.05.2024 (Annexure-N) of AERO, AC-17, Wazirpur has also verified that the Voter ID Card No. WHC 1907962 (Annexure-A) of the Appellant/Claimant is a valid document as per the records of the Election Commission and further, this Voter ID Card No. WHC 1907962 (Annexure-A) has not been

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reflected in the Voter List of the year 2012 & 2013 but it has been reflected in the Voter List of 2014 & 2015.

56. It is also pointed out that the name of the Appellant/Claimant appears at Sl. No. 870 in the Voter List of the year 2014 (Annexure-O) and at Sl. No. 923 in the Voter List of the year 2015 (Annexure-P). It is also pointed out that in the Voter List of the year 2014 (Annexure-O) and Voter List of the year 2015 (Annexure-P) the number of the Voter ID Card of the Appellant/Claimant is mentioned to be WHC 1907962 (Annexure-A) and further, in the above mentioned documents (Annexure-A, Annexure-B, Annexure-O and Annexure-P) the address of the Appellant/Claimant is mentioned to be Jhuggi No. I-5 regarding which the Appellant/Claimant has been claiming allotment from DDA.

57. Therefore, we have no hesitation in holding that the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. I-5 regarding which she has been claiming allotment from DDA and further his name also appears in the voter list of the year's 2014 and 2015 but the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor under Part–B Para 10 of the policy and accordingly the Appellant/Claimant is not entitled to claim allotment from DDA.

58. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the second floor of the Jhuggi No. I-5 regarding which he is claiming allotment from DDA. The fact remains that the Appellant/Claimant was not having a separate Ration Card issued on the address of the second floor of the Jhuggi No. I-5, regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

59. The Appellant/Claimant has tendered his Driving License (Annexure-D), the Passbook of Adarsh Credit Cooperative Society (Annexure-E), the Passbook of Kotak Mahindra Bank (Annexure-F) as well as the Voter ID Card No. WHC 3621398 (Annexure-G) & Aadhar Card (Annexure-J) of his wife Suman and Gas Connection (Annexure-I), Aadhar Card (Annexure-J) & the Birth Certificate (Annexure-K) of his son Kavyansh, Aadhar Card (Annexure-L) & Birth Certificate (Annexure-M) of his daughter Kritika in support of his claim.

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60. It is pointed out that the Driving License (Annexure-D) of the Appellant/Claimant has been issued on 11.08.2015. The Passbook of Adarsh Credit Cooperative Society (Annexure-E) shows that the Appellant/Claimant had opened the account on 31.01.2013. The Passbook of Kotak Mahindra Bank (Annexure-F) shows that the Appellant/Claimant had opened the account but the date of opening of account is not mentioned. The Voter ID Card No. WHC 3621398 (Annexure-G) of his wife Suman has been issued on 28.03.2022, much after the cutoff date of 01.01.2015 and accordingly the question of her using her Voter ID Card to vote in any of the elections from 2012 to 2015 does not arise. Whereas Aadhar Card No. 5651 0691 9604 (Annexure-H) has been issued on 07.11.2013, much prior to the cutoff date 01.01.2015. The Gas Connection (Annexure-I) shows that the gas connection has been taken by his wife Suman on 25.12.2023, much after the cutoff date of 01.01.2015. The Birth Certificate (Annexure-K) & Birth Certificate (Annexure-M) of his son Kavyansh and daughter Kritika respectively have been issued on 21.10.2020 and 29.01.2023 respectively and both the documents have been issued much after the cutoff date of 01.01.2015. Aadhar Cards (Annexure-J & Annexure-L) of his son Kavyansh and daughter Kritika have been issued on 04.02.2024 and 01.02.2024 respectively and both the documents have been issued much after the cutoff date of 01.01.2015. It is also pointed out that in all the above mentioned documents, the address is mentioned to be Jhuggi No. I-5 regarding which the Appellant/Claimant has been claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the second floor of the Jhuggi No. I-5 regarding which he has been claiming allotment from DDA and further as per our discussion above the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor under Part–B Para 10 of the policy and accordingly the Appellant/Claimant is not entitled to claim allotment from DDA.

61. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly accordingly to the merit.

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of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

62. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Appellant/Claimant was not having Separate Ration Card on the cutoff date of 01.01.2015 and further the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she has claimed allotment against the second floor, which is not included in the definition of upper floor under Part–B Para 10 of the policy and accordingly the Appellant/Claimant is not entitled to claim allotment from DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with his family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-P, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

63. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No.350-10/112.1 dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.20232passed by Hon'ble High Court of Delhi in WP(C) No. 6728/20232and C.M. Appeal 25594/20232titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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

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

Appeal No: 243 of 2024

Date of Institution: 28.07.2023

Date of Order: 31.07.2024

Present: Appellant/ Claimant Chhabi Nath S/o Shankar Lal

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. I-5, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. I-5 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has

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rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-10/111.1 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 243 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 17.05.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-S, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. I-5 was found to exist on the first floor but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of the Jhuggi No. I-5 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Chhabi Nath has been recorded before us on 17.05.2024, wherein he has stated that his parents, Shankar Lal & Munni Devi, are having

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three sons, Chhabi Nath, Shri Kishan & Vikas and two daughters, Vineeta & Sangeeta. All the children are married. Vineeta is married with Chandrabhan and she is living on rent in her matrimonial home in Jailorwala Bagh, Ashok Vihar. Sangeeta is married with Satyendra and she is living in her matrimonial home in Bareli, Uttar Pradesh. Vikas is married with Manju and having one son Yuvansh. Shri Kishan is married with Suman and having two children, Kavyansh & Kritika. Chhabi Nath (Appellant/Claimant) is married with Poonam and having four children, Astha, Upasna, Dev & Prateek.

9. The Appellant/Claimant has stated that Gulab Singh S/o Kallu also belongs to Bareily, Uttar Pradesh and he was having a double storey Jhuggi No. I-5, Jailorwala Bagh, Ashok Vihar. Gulab Singh S/o Kallu had sold the first floor of the said Jhuggi No. I-5 to Shankar Lal in the year 2005 for Rs. 18,000/-. After purchasing the first floor, Shankar Lal also raised construction on the second floor of the said Jhuggi No. I-5. Accordingly, the Jhuggi No. I-5, which was previously a double storey structure was converted into a triple storey structure and it is having one room on the ground floor and two rooms on the first floor and one room on the second floor and an iron ladder is placed outside in the gali and it is used for going from the ground floor to the first floor and then to the second floor.

GROUND FLOOR OF JHUGGI NO. 1-5

10. The Appellant/Claimant has stated that Gulab Singh along with his wife Anjali and children is living on the ground floor of the said triple Jhuggi No. I-5 and regarding that DDA has made allotment in favour of Anjali W/o Gulab Singh. These facts are not disputed by DDA.

SECOND FLOOR OF JHUGGI NO. 1-5

11. The Appellant/Claimant has stated that Shri Kishan along with his wife Suman and both the children Kavyansh & Kritika, is living on the second floor of the said triple storey Jhuggi No. I-5 and regarding that Shri Kishan has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the Appeal No. 241 of 2024 before the Appellate Authority for redressal. These facts are not disputed by DDA.

FIRST JHUGGI ON THE FIRST FLOOR OF THE JHUGGI No. I-5

12. The Appellant/Claimant has stated that his parents, Shankar Lal & Munni Devi, are living in

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the first room on the first floor of the said triple storey Jhuggi No. I-5, which was a separate dwelling unit and regarding that his mother Munni Devi has sought allotment from DDA but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the Appeal No. 244 of 2024 before the Appellate Authority for redressal. These facts are not disputed by DDA.

SECOND JHUGGI ON THE FIRST FLOOR OF THE JHUGGI No. I-5

13. The Appellant/Claimant has stated that he along with his wife Poonam and all the four children, Astha, Upasna, Dev & Prateek, is living in the second room on the first floor of the said triple storey Jhuggi No. I-5, which is a separate dwelling unit and regarding that he has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee on the ground that he has been found to have claimed allotment against the upper floor in spite of the fact that he has admittedly sought allotment against the first floor of the said triple storey Jhuggi No. I-5 and further he is having all the requisite documents as per the policy guidelines issued by DDA and accordingly aggrieved by the same he has filed the present Appeal No. 244 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-S, in support of his claim and prayed that DDA be directed to make allotment in his favour.

14. It is pointed out that all the three Appeals bearing Appeal No. 241 of 2024, Appeal No. 243 of 2024 and Appeal No. 244 of 2024 shall be decided separately on their individual merits.

15. DDA has furnished survey records along with four video clips of Jhuggi No. I-5. As per survey records the survey was got conducted on 01.10.2020 by Poonam, who is the wife of the Appellant/Claimant, of Jhuggi No. I-5 and her photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducting of survey/videography Poonam, who is the wife of the Appellant/Claimant, was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

16. DDA has furnished the survey records along with four video clips of Jhuggi No. I-5. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 17.05.2024 wherein the Appellant/Claimant has stated that the first video clip pertains

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to the Jhuggi No. I-5 in which multi storey pucca structure is seen and one Meera, who is neighbor of Gulab Singh & Anjali is seen and getting the survey conducted on the behalf of Anjali w/o Gulab Singh and she is also heard stating that her name is Meera and Anjali had gone out to take medicine and further, the room & kitchen on the ground floor is seen and further, the said Meera is also seen holding a slate in her hand on which **" I-5 ANJALI GF"** is seen to have been written. The second video clip pertains to the first room on the first floor of the Jhuggi No. I-5 in which Poonam W/o Chhabi Nath is seen & getting the survey conducted on behalf of her husband Chhabi Nath and further, their room & kitchen are seen on the first floor and she is also seen holding a slate in her hand on which **"I-5 CHHABINATH FF"** is seen to have been written. The third video clip pertains to the second room on the first floor of the said Jhuggi No. I-5 of Munni Devi in which her husband Shankar Lal is seen along with Suman W/o Shri Kishan and getting the survey conducted and further, the room & kitchen of the Appellant/Claimant Munni Devi on the first floor is seen and Shankar Lal is also seen holding a slate in his hand on which **"I-5 MUNNI DEVI FF"** is seen to have been written. The fourth video clip pertains to the room on the second floor of the Jhuggi No. I-5 of Shri Kishan in which Suman W/o Shri Kishan is seen and getting the survey conducted on the second floor and their room & kitchen are also seen and further, she is also seen holding a slate in her hand on which **"I-5 SHRI KISHAN IInd .F"** is seen to have been written.

17. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case about the existence of the triple storey Jhuggi No. I-5. The statement of the Appellant/Claimant is duly corroborated by the survey records tendered by DDA as well as the video clips prepared by the survey team and placed on file by DDA and it shows that Jhuggi No. I-5 is a triple storey pucca structure and it comprises of one room on the ground floor and two rooms on the first floor and one room on the second floor and further, Anjali W/o Gulab Singh S/o Kallu is living on the ground floor of the Jhuggi No. I-5 whereas Munni Devi W/o Shankar Lal (Appellant/Claimant of Appeal No. 244 of 2024) is living in the first room on the first floor of the Jhuggi No. I-5 and Chhabi Nath S/o Shankar Lal (Appellant/Claimant of Appeal No. 243 of 2024) is living in the second room on the first floor of the Jhuggi No. I-5 and further Shri Kishan S/o Shankar Lal (Appellant/Claimant of Appeal No. 241 of 2024) is living on the second floor of the Jhuggi No. I-5. Furthermore, the Appellant/Claimant along with his family is using his Jhuggi on the first floor of the said Jhuggi

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No. I-5 for residential purposes.

18. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. I-5 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still living on the first floor of the said double storey Jhuggi No. I-5 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi.

19. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of the said triple storey Jhuggi No. I-5 as per the policy guidelines issued by DDA.

20. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-S, in support of his claim and prayed that DDA be directed to make allotment against the first floor of the said triple storey Jhuggi No. I-5 in his favour.

21. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the

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year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-10/111.1 dated 01.07.2023.

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 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."

23. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

24. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of

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

25. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

26. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

28. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

29. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

30. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

32. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

33. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration

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card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

34. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

35. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy

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

36. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

37. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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

40. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

42. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

43. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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

45. It is pointed out that we have already held that the triple storey Jhuggi No. I-5 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still living on the first floor of the said triple storey Jhuggi No. I-5 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said triple storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the first floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

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

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01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor of the said triple storey Jhuggi No. I-5 as per the policy guidelines issued by DDA.

47. The Appellant/Claimant has tendered his Voter ID Card No. WHC 1925188 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Letter dated 01.05.2024 of AERO, AC-17 (Annexure-P), Voter List of the year 2014 (Annexure-Q) and Voter List of the year 2015 (Annexure-R).

48. It is pointed out that the Voter ID Card No. WHC 1925188 (Annexure-A) of the Appellant/Claimant has been issued on 03.04.2013, much prior to the cutoff date 01.01.2015. Furthermore, the Appellant/Claimant has tendered his Aadhar Card No. 2394 6974 4243 (Annexure-B) and it has been issued on 18.09.2011, much prior to the cutoff date 01.01.2015. The Letter F.No/AERO/AC-17/2024/171 dated 01.05.2024 (Annexure-P) of AERO, AC-17, Wazirpur has also verified the Voter ID Card No. WHC 1925188 (Annexure-A) of the Appellant/Claimant be a valid document as per the records of the Election Commission and it is not mentioned in the Voter List of 2012 & 2013 but it is mentioned in the Voter List of 2014 & 2015.

49. It is also pointed out that the name of the Appellant/Claimant appears at Sl. No. 859 in the Voter List of the year 2014 (Annexure-Q) and at Sl. No. 921 in the Voter List of the year 2015 (Annexure-R). It is also pointed out that in the Voter List of the year 2014 (Annexure-Q) and Voter List of the year 2015 (Annexure-R) the number of the Voter ID Card of the Appellant/Claimant is mentioned to be WHC1925188 (Annexure-A) and further, in the above mentioned documents (Annexure-A, Annexure-B, Annexure-Q and Annexure-R) the address of the Appellant/Claimant is mentioned to be Jhuggi No. I-5 regarding which the Appellant/Claimant has been claiming allotment from DDA.

50. Therefore, we have no hesitation in holding that the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. I-5 regarding which he has been claiming allotment from DDA and further his name also appears in the voter list of the year's 2014 and 2015.

51. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the

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cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. I-5 regarding which he is claiming allotment from DDA. The fact remains that the Appellant/Claimant was not having a separate Ration Card issued on the address of the first floor of the Jhuggi No. I-5, regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

52. The Appellant/Claimant has tendered his Driving License (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Poonam, Aadhar Cards (Annexure-G to Annexure-J) of his children, Aastha, Upasna, Dev & Prateek, the Passbook of IDBI (Annexure-K), the Passbook of Post Office (Annexure-L), Birth Certificates (Annexure-M to Annexure-O) of his children, Upasna, Dev & Prateek and the Passbook of Post Office (Annexure-S) in support of his claim.

53. It is pointed out that the Driving License (Annexure-D) of the Appellant/Claimant has been issued on 21.05.2014, much prior to the cutoff date 01.01.2015. Furthermore, the Appellant/Claimant has tendered Aadhar Card No. 9682 5989 5453 (Annexure-E) of his wife Poonam and it has been issued on 17.09.2011, much prior to the cutoff date 01.01.2015. Aadhar Cards (Annexure-G to Annexure-J) of his children, Aastha, Upasna, Dev & Prateek have been issued on the address of Jhuggi No. I-5 regarding which the Appellant/Claimant has been claiming allotment from DDA but all these documents have been issued much after the cutoff date of 01.01.2015. The Passbook of IDBI (Annexure-K) shows that the Appellant/Claimant had opened the account on 13.04.2016 and the Passbook of Post Office (Annexure-L) shows that his daughter Aastha had opened the account on 29.01.2021. Birth Certificates (Annexure-M to Annexure-O) of his children Upasna, Dev & Prateek have been issued on 21.06.2014, 30.01.2017 and 20.03.2019 respectively. The Passbook of Post Office (Annexure-S) shows that her daughter Upasna had opened the account on 29.01.2021. It is also pointed out that in all the above mentioned documents, the address is mentioned to be Jhuggi No. I-5 regarding which the Appellant/Claimant has been claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the

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Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. I-5 regarding which he has been claiming allotment from DDA, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

55. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. I-5, Jailorwala Bagh, regarding which he is claiming allotment from DDA in spite of the fact that he is claiming allotment from DDA against the upper floor, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-S, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per

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the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

56. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-10/111.1 dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

Appeal No: 244 of 2024

Date of Institution: 28.07.2023

Date of Order: 31.07.2024

Present: Appellant/ Claimant Munni Devi W/o Shankar Lal

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. I-5, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. I-5 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the

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Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-76/78.1 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 244 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhey Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 17.05.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-P, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. I-5 was found to exist on the first floor but she had failed to submit required documents, i.e., Voter ID Card & separate Ration Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card etc., on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of the Jhuggi No. I-5 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Munni Devi has been recorded before us on 17.05.2024, wherein she has stated that she is married with Shankar Lal and having three

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sons, Chhabi Nath, Shri Kishan & Vikas and two daughters, Vineeta & Sangeeta. All the children are married. Vineeta is married with Chandrabhan and she is living on rent in her matrimonial home in Jailorwala Bagh, Ashok Vihar. Sangeeta is married with Satyendra and she is living in her matrimonial home in Bareli, Uttar Pradesh. Vikas is married with Manju and having one son Yuvansh. Shri Kishan is married with Suman and having two children, Kavyansh & Kritika. Chhabi Nath is married with Poonam and having four children, Astha, Upasna, Dev & Prateek.

9. The Appellant/Claimant has stated that Gulab Singh S/o Kallu also belongs to Bareily, Uttar Pradesh and he was having a double storey Jhuggi No. I-5, Jailorwala Bagh, Ashok Vihar. Gulab Singh S/o Kallu had sold the first floor of the said Jhuggi No. I-5 to Shankar Lal in the year 2005 for Rs. 18,000/-. After purchasing the first floor, Shankar Lal also raised construction on the second floor of the said Jhuggi No. I-5. Accordingly, the Jhuggi No. I-5, which was previously a double storey structure was converted into a triple storey structure and it is having one room on the ground floor and two rooms on the first floor and one room on the second floor and an iron ladder is placed outside in the gali and it is used for going from the ground floor to the first floor and then to the second floor.

GROUND FLOOR OF JHUGGI NO. 1-5

10. The Appellant/Claimant has stated that Gulab Singh along with his wife Anjali and children is living on the ground floor of the said triple Jhuggi No. I-5 and regarding that DDA has made allotment in favour of Anjali W/o Gulab Singh. These facts are not disputed by DDA.

SECOND FLOOR OF JHUGGI NO. 1-5

11. The Appellant/Claimant has stated that her son, Shri Kishan along with his wife Suman and both the children Kavyansh & Kritika, is living on the second floor of the said triple storey Jhuggi No. I-5 and regarding that Shri Kishan has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the Appeal No. 241 of 2024 before the Appellate Authority for redressal. These facts are not disputed by DDA.

FIRST JHUGGI ON THE FIRST FLOOR OF THE JHUGGI No. I-5

12. The Appellant/Claimant has stated that her son Chhabi Nath along with his wife Poonam and all the four children, Astha, Upasna, Dev & Prateek, is living in the first room on the first floor

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of the said triple storey Jhuggi No. I-5, which was a separate dwelling unit and regarding that Chhabi Nath has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the Appeal No. 243 of 2024 before the Appellate Authority for redressal. These facts are not disputed by DDA.

SECOND JHUGGI ON THE FIRST FLOOR OF THE JHUGGI No. I-5

13. The Appellant/Claimant has stated that she along with her husband, Shankar Lal, and the family of her son, Vikas, is living in the second room on the first floor of the said triple storey Jhuggi No. I-5, which is a separate dwelling unit and regarding that she has sought allotment from DDA but her claim has been rejected by the Eligibility Determination Committee on the ground that she has been found to have claimed allotment against the upper floor in spite of the fact that she has admittedly sought allotment against the first floor of the said triple storey Jhuggi No. I-5 and further she is having all the requisite documents as per the policy guidelines issued by DDA and accordingly aggrieved by the same she has filed the present Appeal No. 244 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-P, in support of her claim and prayed that DDA be directed to make allotment in her favour.

14. It is pointed out that all the three Appeals bearing Appeal No. 241 of 2024, Appeal No. 243 of 2024 and Appeal No. 244 of 2024 shall be decided separately on their individual merits.

15. DDA has furnished survey records along with four video clips of Jhuggi No. I-05. As per survey records the survey was got conducted on 22.11.2020 by the children of the Appellant/Claimant of Jhuggi No. I-5 and their photographs are also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducting of survey/videography Shankar Lal, who is the husband of the Appellant/Claimant, was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

16. DDA has furnished the survey records along with four video clips of Jhuggi No. I-05. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 17.05.2024 wherein the Appellant/Claimant has stated that the first video clip pertains to the Jhuggi No. I-5 in which multi storey pucca structure is seen and one Meera, who is neighbor of Gulab Singh & Anjali is seen and getting the survey conducted on the behalf of

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Anjali w/o Gulab Singh and she is also heard stating that her name is Meera and Anjali had gone out to take medicine and further, the room & kitchen on the ground floor is seen and further, the said Meera is also seen holding a slate in her hand on which **" I-5 ANJALI GF"** is seen to have been written. The second video clip pertains to the first room on the first floor of the Jhuggi No. I-5 in which Poonam W/o Chhabi Nath is seen & getting the survey conducted on behalf of her husband Chhabi Nath and further, their room & kitchen are seen on the first floor and she is also seen holding a slate in her hand on which **"I-5 CHHABINATH FF"** is seen to have been written. The third video clip pertains to the second room on the first floor of the said Jhuggi No. I-5 of Munni Devi in which her husband Shankar Lal is seen along with Suman W/o Shri Kishan and getting the survey conducted and further, the room & kitchen of the Appellant/Claimant Munni Devi on the first floor is seen and Shankar Lal is also seen holding a slate in his hand on which **"I-5 MUNNI DEVI FF"** is seen to have been written. The fourth video clip pertains to the room on the second floor of the Jhuggi No. I-5 of Shri Kishan in which Suman W/o Shri Kishan is seen and getting the survey conducted on the second floor and their room & kitchen are also seen and further, she is also seen holding a slate in her hand on which **"I-5 SHRI KISHAN IInd .F"** is seen to have been written.

17. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case about the existence of the triple storey Jhuggi No. I-5. The statement of the Appellant/Claimant is duly corroborated by the survey records tendered by DDA as well as the video clips prepared by the survey team and placed on file by DDA and it shows that Jhuggi No. I-5 is a triple storey pucca structure and it comprises of one room on the ground floor and two rooms on the first floor and one room on the second floor and further, Anjali W/o Gulab Singh S/o Kallu is living on the ground floor of the Jhuggi No. I-5 whereas Munni Devi W/o Shankar Lal (Appellant/Claimant of Appeal No. 244 of 2024) is living in the first room on the first floor of the Jhuggi No. I-5 and Chhabi Nath S/o Shankar Lal (Appellant/Claimant of Appeal No. 243 of 2024) is living in the second room on the first floor of the Jhuggi No. I-5 and further Shri Kishan S/o Shankar Lal (Appellant/Claimant of Appeal No. 241 of 2024) is living on the second floor of the Jhuggi No. I-5. Furthermore, the Appellant/Claimant along with her family is using her Jhuggi on the first floor of the said Jhuggi No. I-5 for residential purposes.

18. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. I-5 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the

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Appellant/Claimant along with her family was & is still living on the first floor of the said double storey Jhuggi No. I-5 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi.

19. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of the said triple storey Jhuggi No. I-5 as per the policy guidelines issued by DDA.

20. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-P, in support of her claim and prayed that DDA be directed to make allotment against the first floor of the said triple storey Jhuggi No. I-5 in her favour.

21. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-76/78.1 dated 01.07.2023.

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

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

"Part-B

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

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

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

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

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

23. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

24. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

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

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the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

26. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

28. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

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dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

30. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

32. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

33. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

34. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore,

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even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

35. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the

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cut-off date, i.e., 01st January, 2015.

36. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

37. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

40. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

42. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

43. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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

45. It is pointed out that we have already held that the triple storey Jhuggi No. I-5 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still living on the first floor of the said triple storey Jhuggi No. I-5 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said triple storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the first floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

46. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor of the said triple storey Jhuggi No. I-5 as per the policy guidelines issued by DDA.

47. The Appellant/Claimant has tendered her Voter ID Card No. WHC 1620665 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Letter dated 01.05.2024 of AERO/AC-17 (Annexure-L), Voter List of the year 2012 (Annexure-M), Voter List of the year 2013 (Annexure-N), Voter List of the year 2014 (Annexure-O) and Voter List of the year 2015 (Annexure-P) in support of her claim.

48. It is pointed out that Voter ID Card No. WHC 1620665 (Annexure-A) of the Appellant/

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/Claimant has been issued on 22.02.2009, much prior to the cutoff date 01.01.2015. Furthermore, the Appellant/Claimant has also tendered her Aadhar Card (Annexure-B), which is bearing number 5020 8412 2954 and it has been issued on 24.09.2011, much prior to the cutoff date 01.01.2015. The Letter F.NO./AERO/AC-17/2024/159 dated 01.05.2024 (Annexure-L) of AERO, AC-17, Wazirpur has verified the Voter ID Card No. WHC 1620665 (Annexure-A) of the Appellant/Claimant to be a valid document as per the records of the Election Commission and also that her name has been reflected in the Voter Lists of the years from 2012 to 2015.

49. It is also pointed out that the name of the Appellant/Claimant appears at Sl. No. 661 in the Voter List of the year 2012 (Annexure-M), at Sl. No. 661 in the Voter List of the year 2013 (Annexure-N), at Sl. No. 865 in the Voter List of the year 2014 (Annexure-O) and at Sl. No. 917 in the Voter List of the year 2015 (Annexure-P). Furthermore, in the Voter Lists (Annexure-M to Annexure-P), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be WHC 1620665 (Annexure-A) and further, in all the above mentioned documents (Annexure-A, Annexure-B, Annexure-M to Annexure-P) the address of the Appellant/Claimant is mentioned to be Jhuggi No. I-5 regarding which the Appellant/Claimant has been claiming allotment from DDA.

50. Therefore, we have no hesitation in holding that the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. I-5 regarding which she has been claiming allotment from DDA and further her name also appear in the voter list of the year's 2012, 2013, 2014 and 2015.

51. The Appellant/Claimant has admitted that she was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. I-5 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered the Ration Card No. 077005245164 (Annexure-K) in support of her claim. It is pointed out that this Ration Card No. 077005245164 (Annexure-K) has been issued in favour of the Appellant/Claimant and further, the names of her two of the sons, Sri Kishan & Vikas are mentioned but the name of her husband Shankar Lal is conspicuously missing and this Ration Card has been issued on 27.08.2019, much after the cutoff date of 01.01.2015. The fact remains that the Appellant/Claimant was not having a separate Ration Card issued on the address of the first floor of the Jhuggi No. I-5, regarding which she is claiming allotment from

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

52. The Appellant/Claimant has tendered the Passbook of Indian Overseas Bank (Annexure-D), Electricity Bill (Annexure-E) as well as the Voter ID Card No. WHC 0346304 (Annexure-F), Aadhar Card (Annexure-G) & PAN Card (Annexure-H) of her husband, Shankar Lal and the Passbook of SBI (Annexure-I), Gas Connection (Annexure-J) and the Ration Card (Annexure-K) in support of her claim.

53. It is pointed out that the Passbook of Indian Overseas Bank (Annexure-D) shows that the Appellant/Claimant had opened the account on 04.05.2013, much prior to the cutoff date 01.01.2015. The Passbook of SBI (Annexure-I) shows that her husband Shankar had opened the account on 06.02.2014, much prior to the cutoff date 01.01.2015. The Electricity Bill (Annexure-E) shows that the Appellant/Claimant had taken electricity connection on 20.07.2018. The Voter ID Card No. WHC 0346304 (Annexure-F) of her husband Shankar has been issued on 18.10.2008, much prior to the cutoff date 01.01.2015. Furthermore, the Appellant/Claimant has tendered the Aadhar Card (Annexure-G) of her husband and it has been issued on 18.09.2011, much prior to the cutoff date 01.01.2015. The Gas Connection (Annexure-J) shows that her husband Shankar Lal had taken gas connection on 21.03.2013, much prior to the cutoff date 01.01.2015. Furthermore, in all the above mentioned documents (Annexure-D to Annexure-G and Annexure-I & Annexure-K) the address is mentioned to be Jhuggi No. I-5 regarding which the Appellant/Claimant is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. I-5 regarding which she has been claiming allotment from DDA, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

54. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy

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in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly accordingly to the merit of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

55. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 issued on the first floor of Jhuggi No. I-5 regarding which she is claiming allotment from DDA in spite of the fact that he is claiming allotment from DDA against the upper floor, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-P, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

56. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-76/78.1 dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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57. 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 28.07.20232passed by Hon'ble High Court of Delhi in WP(C) No. 6728/20232and C.M. Appeal 25594/20232titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

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

Appeal No: 62 of 2024

Date of Institution: 12.07.2023

Date of Order: 31.07.2024

Present: Appellant/ Claimant Monika W/o Avdesh Gautam

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. D-16, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-16 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

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rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-15/75.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 62 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhe Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 27.06.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-R, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-16 was found to exist but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. D-16 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Monika has been recorded before us on 27.06.2024 wherein she has stated that her parents, Avdesh Gautam & Neelam Devi, are having two sons; Rahul & Anmol, and three daughters; Monika, Neha & Sneha. All the

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children except Neha are unmarried. Neha is married with Bimal and she is living in her matrimonial home in Sultanpur, Uttar Pradesh.

9. The Appellant/Claimant has stated that her parents, Avdesh Gautam & Neelam Devi, along with all their four unmarried children; Rahul, Anmol, Monika (Appellant/Claimant) & Sneha are living in the double storey Jhuggi No. D-16, Jailorwala Bagh and it comprises of one room on each floor and a bamboo ladder has been placed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that she has sought allotment from DDA but her claim has been rejected by the Eligibility Determination Committee on the ground that she was found to have claimed allotment against the upper floor and further her Voter ID Card could not be verified in spite of the fact that she has sought allotment against the said double storey Jhuggi No. D-16 and further she is having all the requisite documents as per policy guidelines issued by DDA and accordingly aggrieved by the same, she has filed the present Appeal No. 62 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-R, in support of her claim and prayed that DDA be directed to make allotment in her favour.

11. DDA has furnished survey records along with one video clip of Jhuggi No D-16. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. D-16 on 18.03.2020 on the ground floor of the said Jhuggi and her photographs along with her mother are also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducting of survey/videography Neelam Devi, who is the mother of the Appellant/Claimant, was very much present and she had got the survey/videography conducted on behalf of the Appellant/Claimant and the video clip is also attached in token thereof.

12. DDA has furnished survey records along with one video clip pertaining to the Jhuggi No. D-16. The video was played before the Appellant/Claimant when her statement was recorded before us on 27.06.2024 wherein she has stated that the video clip pertains to the double storey Jhuggi No. D-16 in which from outside the Jhuggi is clearly seen to be a double storey pucca structure and a bamboo ladder is also seen placed outside in the gali and being used for going to the upper floor and further, her mother Neelam Devi is seen and getting the survey conducted on behalf of the Appellant/Claimant and her room & kitchen are also seen

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and further, her mother Neelam is also seen holding a slate in her hand on which **"D-16 MONIKA G+1"** is seen to have been written.

13. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the double storey Jhuggi No. D-16. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. D-16 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the same for residential purposes.

14. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. D-16 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the double storey Jhuggi No. D-16 as per the policy guidelines issued by DDA.

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

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cutoff

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date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-15/75.G dated 01.07.2023.

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

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

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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."

18. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

19. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey

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Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

20. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

21. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

23. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

24. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

25. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor

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while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

27. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

28. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration

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card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

29. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

30. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made

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

31. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

32. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

35. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

37. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must

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appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

38. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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

40. It is pointed out that we have already held that the double storey Jhuggi No. D-16 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

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

42. The Appellant/Claimant has tendered her Voter ID Card No. AKC 1706232 (Annexure-A), Aadhar Card (Annexure-B) & PAN Card (Annexure-C) in support of her claim.

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43. It is pointed out that the Appellant/Claimant has tendered her Voter ID Card (Annexure-A) bearing no. AKC 1706232 AND it is has been issued on 30.05.2012, much prior to the cutoff date of 01.01.2015 but it has been issued on the address of H. No. 131, Railway Road, Shadi Nagar, Azadpur and not on the address of the Jhuggi No. D-16, Jailorwala Bagh regarding which the Appellant/Claimant has been claiming allotment from DDA and accordingly, this document is not relevant to determine the eligibility of the Appellant/Claimant for claiming alternative allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. D-16 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

44. The Appellant/Claimant has tendered the Voter ID Card No. WHC 1709698 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of her mother Neelam Devi as well as Letter No. F.No.AERO/AC-17/2023/45 dated 17.05.2023 (Annexure-Q) issued by AERO, AC-17, Wazirpur and Voter List of the year 2012 (Annexure-R) in support of her claim.

45. It is pointed out that the Voter ID Card No. WHC 1709698 (Annexure-D) of her mother Neelam Devi has been issued on 07.01.2011, much prior to the cutoff date of 01.01.2015 on the address of the Jhuggi No. D-17, Jailorwala Bagh, Ashok Vihar. Furthermore, the Letter No. F.No.AERO/AC-17/2023/45 dated 17.05.2023 (Annexure- Q) issued by AERO, AC-17, Wazirpur also verifies the genuineness of the Voter ID Card No. WHC 1709698 of her mother Neelam Devi. Further, the name of her mother Neelam Devi also appears at Sl. No. 662 in the Voter List of the year 2012 (Annexure- R). It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. D-16, Jailorwala Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

46. The Appellant/Claimant has also tendered the Ration Card (Annexure-G), Passbook of Canara Bank (Annexure-H), Electricity Bill (Annexure-I), Voter ID Card No. WHC 1709707 (Annexure-J) of her father Avdesh, Aadhar Card (Annexure-L) & Voter ID Card No. WHC

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2234838 (Annexure-M) of her brother Rahul as well as Aadhar Cards (Annexure-N to Annexure-P) of her siblings Neha, Sneha & Anmol, in support of her claim.

47. It is pointed out that the Ration Card No. 077004000096 (Annexure-G) has been issued in favour of her mother Neelam on 18.06.2014 and the name of the Appellant/Claimant is mentioned therein. The Passbook of Canara Bank (Annexure-H) shows that her mother Neelam had opened the account on 17.11.2008. Furthermore, the Electricity Bill (Annexure-I) shows that her mother Neelam had taken the electricity connection on 24.02.2010. The Voter ID Card No. WHC 1709707 (Annexure-J) of her father Avdesh has been issued on 07.01.2011. Whereas the Voter ID Card No. WHC 2234838 (Annexure-M) of her brother Rahul has been issued on 16.03.2017, much after the cutoff date of 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. D-16, Jailorwala Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

49. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. D-16 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter

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list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-R, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

50. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-15/75.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

51. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 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**